



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114657869>



13

SP-1

SP-1

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 22 March 2010

Journal des débats (Hansard)

Lundi 22 mars 2010

Standing Committee on Social Policy

Full Day Early Learning
Statute Law
Amendment Act, 2010

Comité permanent de la politique sociale

Loi de 2010 modifiant des lois en
ce qui concerne l'apprentissage
des jeunes enfants à temps plein



Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 22 March 2010

Lundi 22 mars 2010

The committee met at 1401 in committee room 1.

APPOINTMENT OF SUBCOMMITTEE

The Vice-Chair (Mr. Vic Dhillon): Good afternoon, everybody. Welcome to the Standing Committee on Social Policy. We're here this afternoon to hear deputations on Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters.

The first thing we have to do is appoint the subcommittee on committee business. Mr. McMeekin?

Mr. Ted McMeekin: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member of this committee to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair as Chair, Ms. DiNovo, Mr. Johnson and Mrs. Witmer; and

That substitution be permitted on the subcommittee.

The Vice-Chair (Mr. Vic Dhillon): Any discussion? If none, all those in favour? Opposed? That's carried.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr. Vic Dhillon): Next is the report of the subcommittee on committee business. Can somebody move the report? Mr. Johnson.

Mr. Rick Johnson: Your subcommittee on committee business met on Tuesday, March 9, 2010, to consider the method of proceeding on Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Monday, March 22, Tuesday, March 23 and Monday, March 29, 2010, in Toronto.

(2) That the clerk of the committee, with the authority of the Chair, place an advertisement for one day about the public hearings in major daily newspapers in Ontario.

(3) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 242 should contact the clerk of the committee by Wednesday, March 17, 2010, at 5 p.m.

(5) That the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.

(6) That the length of presentations for witnesses be 10 minutes.

(7) That the deadline for written submissions be Monday, March 29, 2010, at 5 p.m.

(8) That the deadline for filing amendments to the bill with the clerk of the committee be Tuesday, April 6, 2010, at noon.

(9) That clause-by-clause consideration of the bill be scheduled for Monday, April 12, 2010.

(10) That sign language interpretation service be provided for the public hearings if necessary.

(11) That the research officer provide the committee a summary of the deputations prior to clause-by-clause consideration of the bill.

(12) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Vice-Chair (Mr. Vic Dhillon): Any comments? All those in favour? Opposed? That's carried.

FULL DAY EARLY LEARNING
STATUTE LAW AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'APPRENTISSAGE
DES JEUNES ENFANTS À TEMPS PLEIN

Consideration of Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters / Projet de loi 242, Loi modifiant la Loi sur l'éducation et d'autres lois en ce qui concerne les éducateurs de la petite enfance, la maternelle et le jardin d'enfants, les programmes de jour prolongé et d'autres questions.

MS. KATE TENNIER

The Vice-Chair (Mr. Vic Dhillon): The first presentation is from Ms. Kate Tennier. While you're getting settled, if you could identify yourself when you're seated. The procedure is that you have 10 minutes.

Interjection.

The Vice-Chair (Mr. Vic Dhillon): Okay. I'll try to speak louder.

If you could identify yourself for Hansard. You have 10 minutes. Any time that is left over will be divided amongst the three parties for any questions. You may begin.

Ms. Kate Tennier: Okay. Is this on?

The Vice-Chair (Mr. Vic Dhillon): Yes.

Ms. Kate Tennier: I'll be using my full 10 minutes.

Since all-day schooling for three- to five-year-olds was announced by Dalton McGuinty in 2007, it was obviously a done deal. Parents' voices were silenced early on. In a December 5, 2007, TVO interview, Charles Pascal, your go-to kindergarten man, pre-emptively bullied parents who didn't want more school for little kids, including but not limited to his infamous comments about these parents having issues. As it is still overwhelmingly mothers who do the care and education work, this is a sort of weird return to the 1950s, when mothers who wanted to work outside the home were told by men that they had issues.

1410

Don't for a second pretend that parents were brought to the table on this one.

Research shows that children this age spending more time in school is not beneficial. In several newspaper articles, I've written about why the outcomes for young children are worsened. If your concern is genuine, please read them.

Indeed, reports used to actually justify your program would not withstand a minute of international scrutiny. In his interview, Pascal gave as evidence the decades-old Ypsilanti Perry preschool study, a study so irrelevant to today's world that it's rendered impotent as justification for programs such as yours. In fact, in May 2006, the Evidence for Policy and Practice Information and Coordinating Centre at the University of London emphatically warned policy-makers not to use this study. It states: "On the basis of this review, the widespread international use of the most favourable headline findings, and in particular of the Perry High/Scope study, is unjustified."

It goes on: "The Perry High/Scope study, started in the 1960s, was a small, single-site study, where children were given part-time nursery education and their parents were given support through home visits."

Part-time—let's emphasize that. You are using a study of part-time nursery education from the early 1960s to advocate the movement of hundreds of thousands of little kids from a part-time program to full-time schooling. This borders on, if not outright defines, negligence.

And it goes on. Helen Ward, the president of our country's non-profit Kids First Parents Association of

Canada, is submitting a statement to this committee. It is a must-read. Ward, whose work is cited internationally, goes over Pascal's repeated bending of others' work to justify your program, including the research of Nobel laureate James Heckman, to seemingly bolster his argument, without the absolutely necessary qualifier that Heckman is a known opponent of universal programs.

In yet another example, Pascal references, in his add-on report summarizing his evidence, the Baker, Gruber and Milligan study, again in a manner that seemingly supports his position, while failing to mention that anyone with even a grade 2 reading level would quickly determine that this award-winning study of the Quebec situation comes nothing close to endorsing that province's troubled universal daycare program. In fact, the evidence is so compellingly the opposite, that the well-regarded David Leonhardt of the New York Times used this Quebec report to explain why universal programs of this nature backfire for kids and families.

With tax savings from declining school enrolment, you could have reduced class sizes across the board. Science labs, cooking classes, woodworking shops, school gardens and music as a part of each child's everyday life were all things our collective pot of money could have been spent on.

Or you could have given kindergarten parents a voucher to put them at the heart of their child's education, through a kindergarten credit.

You could have used vouchers, a tool of the compassionate left, as a means of empowering citizens. The great left-liberal James Coleman, author of the iconic *Equality of Educational Opportunity*, and Ivan Illich, whom the über-left *Utne Reader* lauded as the greatest social critic of the 20th century, were both strong, strong supporters of vouchers. It is a complete myth that vouchers are a right-wing idea.

Conversely, de facto mandatory early schooling and daycare schemes such as yours are increasingly being seen for what they are. In the words of Berkeley's Bruce Fuller, the author of the pivotal book *Standardized Childhood*, your type of program is being seen by many as a conservative—as in right-wing economics—attempt to fit mothers and children into the corporate economy.

Serious educational reformers know that regardless of how much schooling children receive, the effects of the home will always, always be much stronger, and that's why they know that the only solution is to empower those very parents in that home.

This is where research actually backs up the claim. A special home-schooling double issue of the prestigious peer-reviewed *Peabody Journal of Education* had many findings, including those by Susan McDowell, the journal's editor, who wrote about the beneficial empowerment that home-schooling mothers feel.

Further peer-reviewed research has found that "students taught at home by mothers who never finished high school scored a full 55 percentage points higher than public school students from families with comparable education levels."

This is obviously about more than home-schooling. It is about the irrefutable fact that when given the lead role in their child's education, whether they provide it themselves or direct their voucher to care and education of their own choosing, the lives of children, mothers and families are enhanced, particularly those who were never served well by your system in the first place.

Money directed to families, of course, provides a much larger economic stimulus than having it sucked right back into state coffers because of the greater marginal propensity for spending by those in need—and the needs of parents are greater than any other group. This would provide an immediate reduction in child poverty rates, as estimates put this kindergarten voucher for even just a half-day at between \$4,500 and \$5,000 per year.

You say that this schooling scheme is linked to poverty reduction. Well, we don't see it, unless, of course, you mean the kind where mothers are now supposedly liberated from the home to go out and work at exciting minimum-wage service sector jobs.

Ironically, Ontario is coming to the early schooling/daycare frenzy so late that we're not so much getting on a boat that's already set sail but on one that has already sunk. The most famous early adopter, Sweden, is now addressing the destruction wrought by having parents shut out of their children's educational lives. Visionary politicians like Mats Gerda, now a member of the Swedish national Parliament, set up mothers as their own enterprises so they could be paid for their previously unpaid work.

Then there are people like Bo Pettersson, webmaster of Children's Right to Their Parents, a growing parents' group which pushed for and achieved remarkable success when their government was forced in 2008 to start giving vouchers worth up to \$7,500 per year directly to parents.

I have no confidence you'll put a halt to a program that was clearly founded on faulty information. But I have much confidence in that great tool of our age, the Internet, to get Hansard transcripts out to the growing international community of mothers and fathers who are pushing back against these programs which, while masquerading as benevolent left-liberal offerings, are anything but.

People understand this. Check out any news outlet—even the Toronto Star, where columnist Rosie DiManno wrote a brilliantly scathing critique of all-day kindergarten—and you will find blog posters critical of your cynical attempt to appease the teachers' unions and augment your own power at the expense of the very people you purport to serve.

One mother I see at our local grocery store, always with her two young children in tow, opened her coat to show me the rips and tears in it, telling me that that's all she could afford. She doesn't want more daycare or schooling. What she wants and what she deserves is more financial help for the few years while her kids are young, so that she and her husband can provide the most crucial ingredient in the successful upbringing of her children:

time—time with her own kids. I'm not sure what part of that you refuse to understand.

My experience testifying in Parliament is that the questions are the “gotcha,” rhetorical, grandstanding kind, so if anybody has any useful questions, I'll answer them. Otherwise, I just came to get this on the official record.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. There are 30 seconds, approximately, for each side. Ms. Witmer.

Mrs. Elizabeth Witmer: I do appreciate very much your presentation. Unfortunately, we've heard from very few people who have contrary views, and even though we know—

Ms. Kate Tennier: I tried very hard. I've got emails from Tom Teahen, the chief of staff to Kathleen Wynne. They were not interested. We were shut out from the beginning. I was a grade 1 teacher, a primary specialist. I've also had a day nursery licence. I've spoken nationally about this issue, had op-eds in the Globe and Mail, but they didn't want to hear from us. I want that for the record.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: I don't have any useful questions. Thank you, Kate.

Ms. Kate Tennier: You don't have any? No, I didn't think so.

Mr. Rosario Marchese: I didn't think you would think that I did.

The Vice-Chair (Mr. Vic Dhillon): Mr. Zimmer—
Interjection.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

YMCA ONTARIO

The Vice-Chair (Mr. Vic Dhillon): The next presenter is YMCA Ontario. Good afternoon. If you could please identify yourselves for Hansard, you may begin.

Mr. Shaun Elliott: Thank you. Good afternoon, everyone. My name is Shaun Elliott, and I'm the CEO of the YMCA of Western Ontario. I'm accompanied today by my colleague Linda Cottes, who's a senior vice-president of child, youth and family development at the YMCA of Greater Toronto.

On behalf of the 24 YMCAs in Ontario, we'd like to thank you for the opportunity to present. We find this a very important bill, the Full Day Early Learning Statute Law Amendment Act.

We're an organization that families trust with children. We have a 40-year history in the delivery of child care. We understand the complexity and challenges faced by families, and we work hard to be responsive to the diversity of their needs and interests.

1420

We know that quality, choice, accessibility and affordability are important to families. Every year, 300,000 children aged zero to 12 participate in YMCA programs

throughout this province. We're the largest not-for-profit early learning and child care provider in Ontario, operating nearly 600 centres with more than 24,000 licensed spaces. Eighty-one percent of our centres are located in schools, and the YMCA is also the lead agency operating eight Ontario early years centres.

YMCAs are responsive to the communities we're part of, and we've always expanded and developed new programs and innovations in partnership with others: school boards, the provincial government, municipalities, researchers, academics and local community agencies, to name a few. These partnerships are a key strength, and allow us to provide the best support to families and improve outcomes for the children.

Appearing before the legislative committee is rare for the YMCA. It's because of the unique role we play in providing vital child care services in communities across Ontario and our serious concerns about the implementation of full-day learning that we are here today.

We want to be very clear from the outset: The YMCA supports full-day learning for four- and five-year-olds. From both a developmental and an education perspective, it's sound public policy. It's also good for children. But Bill 242 goes far beyond the government's stated objectives, and will have the unintended effect of destabilizing Ontario's licensed child care system. Parents and children will pay the price.

Specifically, the YMCA is extremely disappointed that the vision for full-day learning excludes community partners and fails to recognize the valuable role we play in ensuring that young children get the supports, care and education they need.

We will highlight three key implementation challenges that, if not addressed, will have a direct impact on the children and families who rely on the YMCA and other community child care providers. Parents will be left with fewer options and higher costs if the bill remains unamended.

The first challenge is the implementation of extended day programs for four- and five-year-olds. Bill 242 states clearly that every school board shall operate extended day programs for four- and five-year-olds. This means that school boards will be prohibited from partnering with quality, experienced, community-based child care providers. In the YMCA's case, we are providing before- and after-school programs now at almost 500 schools in Ontario. We have a good model; it's working, and it's cost-effective. But under this act, school boards would have to establish and operate separate extended day programs for four- and five-year-olds even if there is already a program located in their school or close by. This would be duplication and, dare I say, confusion on a massive scale.

Bill 242 further provides the minister with the authority to issue guidelines or policies relating to all aspects of the operation of before- and after-school programs, including authorizing boards to provide summer programs.

So you see that the bill is quite detailed and broad in scope. It goes far beyond granting legislative authority

for full-day learning for four- and five-year-olds. It represents a fundamental shift in the delivery of child care services and supports to children over the age of four. The value of the original idea—full-day learning for four- and five-year-olds—may well be lost, and that would be an opportunity lost.

The second challenge is ensuring a continued and meaningful role for community providers in operating extended day programs for six- to 12-year-olds. Given the breadth and scope of the bill, the YMCA is also very concerned about the long-term policy for programs for six- to 12-year-olds.

Bill 242 should plainly state that there's a clear role for not-for-profit community providers in delivering before- and after-school programs for six- to 12-year-olds and permit school boards to establish or continue those partnerships. Our partnerships are the best way to reap the benefits of full-day learning.

I am going to turn it over to Linda, and she's going to discuss the third implementation issue: risks to the sustainability of child care under the proposed system.

Ms. Linda Cottes: Transferring the care of four- and five-year-olds to the education sector will have a significant impact on the YMCA's ability to continue to provide child care to babies and preschool children.

One of the key factors is the current financial model of not-for-profit child care. It relies on complex funding and wage subsidy programs as well as a mix of age cohorts to achieve cost efficiencies. This model has evolved over time to compensate for the underfunding of the sector, a situation that won't be helped by the end of federal child care funding.

Infants, toddlers and preschool children require the most amount of care, and therefore are the most expensive cohort. So having a mix of older children helps us achieve efficiencies. In effect, the older children subsidize the younger ones. With no four- or five-year-olds in our care, we face increased operating costs that will result in higher fees to the parents. Where will those parents go to find care for their children? Unlicensed, unregulated care or informal arrangements.

At the time of the announcement, the government acknowledged the challenges and committed to provide funding to stabilize the child care sector. We've heard no details since.

Our message here is: Let's not implement a great program for four- and five-year-olds on the backs of the younger children. Children need quality care at the younger age if they're going to be ready for full-day learning.

Consider that school boards will be offering substantially higher wages for early childhood educators. Let me say that we applaud the recognition given to registered early childhood educators and believe strongly that their wages should reflect their education, hard work and value. But you can see that a staffing crisis will result for community providers as our ECEs leave for higher wages and benefits. This will directly impact the children and their families who are in child care: sadly, the youngest and most vulnerable.

Mr. Shaun Elliott: We stand ready to help make full-day learning a success. Let us use our 40 years of experience, the reputation and trust we have built up, and our philosophy of collaboration to make full-day learning a success. Don't shut us out; let us work together for the sake of Ontario's families.

The YMCAs of Ontario, together with the Quality Early Learning Network and the Boys and Girls Clubs of Canada in Ontario, have drafted specific amendments, including:

- adding not-for-profit community providers as partners in the Education Act;

- changing the definition of “extended day programs”;

- permitting school boards to partner with community providers for before- and after-school programs for four- and five-year-olds;

- permitting school boards to partner with community providers for the delivery of extended day programs before and after school for children ages six to 12; and

- requiring regulations for all matters dealing with before- and after-school programs, as opposed to minister's guidelines and policies.

Thank you for the opportunity to present to you. We are providing the committee with a set of draft amendments for your consideration. I have a copy of them here, and we'll distribute them after. We'd be happy to answer any questions you may have.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Thirty seconds for each side. Mr. Marchese.

Mr. Rosario Marchese: Thank you both for the presentation. We've been hearing from a lot of folks who provide child care that when you take the four-year-olds and the five-year-olds without providing support to those child care centres, they're going to be threatened. Many of them are saying it; I suspect that's why many of them are coming today. Did you have any discussions before and/or during the last little while indicating, from the government, that somehow these concerns will be addressed? Because if they're not going to be addressed, I am as worried as you are.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Marchese. The government side: Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. I guess we've been in discussion with Mr. Elliott for quite some time. Hopefully your issue will be addressed. I know that we took your concern with respect, and hopefully it will be addressed through the ministry. As I said to you earlier, when we met with you in your office, our government studied all the elements, and that's why we had those sessions—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Ms. Witmer.

Mrs. Elizabeth Witmer: I very much appreciate your presentation. I've had my own Y come to see me, and I was actually quite shocked that the government hadn't taken this into consideration prior to the introduction of the bill.

I can tell you that I support these recommendations. I'm really concerned about the future of daycare and the impact it can have on families that are not going to be involved in the full-day—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Thank you for your presentation.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Vice-Chair (Mr. Vic Dhillon): Next, we have the Ontario Public School Boards' Association. Good afternoon. Could you identify yourselves for Hansard, please? You may begin.

Ms. Colleen Schenk: Good afternoon. I'm Colleen Schenk, president of the Ontario Public School Boards' Association, and I am joined today by my vice-presidents, Catherine Fife and Riley Brockington. I'd like to thank you as well for the opportunity to comment on Bill 242.

1430

OPSBA wholeheartedly embraces the fundamental importance of full-day early learning and recognizes that investing in the early years of our children represents one of the most far-reaching and responsible investments we can make in Ontario's future. With this in mind, we have provided the committee with a detailed written submission on the bill, the early learning program and our recommendations. Our remarks will focus on specific provisions of Bill 242 and address some of the implementation issues and future plans that are of interest to our members.

OPSBA strongly recommends that the ministry allow for local flexibility and permit boards to use alternatives for the delivery of the extended day program.

Many boards currently use third party, community-based organizations, such as local daycare providers, YMCAs, and the Boys and Girls Clubs that operate extended day programs in our schools, including Best Start. This is an arrangement that is working very well. Schools have built long-standing relationships that are extremely successful and are very much in keeping both with the values of the seamless day envisioned in Dr. Pascal's report and with the collaboration with other organizations, that provides for stronger communities. Under this legislation these arrangements would not be permitted to continue, except on a limited basis during the first year of implementation.

A good example of this can be seen with Peel District School Board and Dufferin-Peel Catholic District School Board. Both have a working relationship with several organizations including PLASP—formerly known as the Peel lunch and after-school program—Family Day and the YMCA. PLASP Child Care Services is a not-for-profit organization with fairly sophisticated financial and fee collection systems. It has been involved with both Peel school boards for over 20 years and provides programs for children up to 12 years of age that include before-school, lunch-hour and after-school care as well

as PA/PD days, Christmas and March break holidays. These relationships have developed into school-based partnerships that provide seamless transitions and services for children and their families.

Moreover, the elimination of these groups and individuals from the provision of services will weaken community ties.

Due to the complexity of the implementation of the extended day program, there are many boards that are primarily focused on the requirement of offering full-day kindergarten, and as such need to concentrate their efforts and available resources initially to ensure the day portion of the early learning program is successful.

The bill also allows for boards to enter into agreements with other boards to provide extended day programs. We see this as an opportunity for partnerships and the sharing of successful practices and resources. This flexibility is appreciated but, as stated previously, we recommend that boards also be allowed to partner with other organizations to deliver the extended day component.

OPSBA supports the ministry's intention of allowing municipalities and other parties to continue the management of the subsidy process. This is an area that has been managed extremely well and is not something that is a core business to school boards. Our member school boards have indicated that the provision of financial assistance or subsidies is not a function in which school boards wish to be involved. Further, leaving the subsidy process in the hands of the municipalities enables families to have one point of application when requesting subsidies for both preschool and school-aged children.

Mr. Riley Brockington: With regard to the fees that are to be charged for the extended day program, OPSBA members have noted the unintended consequence of fees being used as a means to compete for students between boards and existing third party organizations. We know that there are differences among school boards in how they have structured their operations, and this will affect their cost-recovery ability, that may result in either higher or lower fees for the extended day component.

In addition, our members foresee an increased administration workload around the collection of fees. These additional duties will require increased administrative staffing levels and revised organizational structures and processes. OPSBA has consulted with third party providers and been advised that fee collection will be a major undertaking, which will be a new and additional task for school boards. Boards face a significant challenge to set up a fee collection process and to implement a centralized system for fee collection by September.

We also want to note, through the 2009-10 GSN announcement, the ministry has indicated a reduction in funding for administration and governance. We recommend that the ministry not implement this funding reduction, especially when school boards are dealing with a significant increase in admin workload in connection with the implementation of the ELP and the extended day program.

School boards are anxious to learn the details regarding the calculation of extended day program fees. OPSBA requests that we be consulted regarding the fee regulation. While we recognize that boards will have different operating costs, we want fees to be affordable for parents and similar to the fee at local coterminus school boards.

In addition to the issue of fees, our members are also anxious about the potential for overall underfunding of the program and ultimately the real costs associated with the delivery of the ELP. While we recognize that funding has been allocated for years one and two, boards are apprehensive about potential gaps in funding and are tracking their actual costs. We believe that this program needs to be fully funded in order to enable boards to offer it without reducing funding to other critical programs unrelated to the ELP.

We note that the legislation clearly outlines the duties of ECEs and aligns them more closely with teachers. The listed duties clearly recognize ECEs as professionals who co-deliver their program with teachers. OPSBA believes that this recognition will lead to stronger programs and better outcomes for children. Early, consistent and ongoing training will need to be a major focus for the successful implementation of the program, and it should include all partners.

School boards look forward to assisting with the development of a positive, co-operative and professional working relationship between teachers and ECEs. We note that clause 5 of this section states that ECEs will receive their duties from the principal and not the teacher. OPSBA appreciates this clarification, as it supports the team approach and co-delivery of the program. We look forward to the release of the ministry's program document to see how this will look in practice in the classroom.

Ms. Catherine Fife: We know that there are many parts of the early learning program that are not contained within Bill 242, and these focus more on implementation issues and future plans. Although OPSBA represents school boards, we are partners in education of the whole child, and we are concerned about the future of not only those child care providers currently located in our schools, but also of the child care community in general. We know that the federal funding for child care is about to expire at the end of March 2010, and we would urge the Ontario government to continue to vigorously pursue funding solutions that will maintain stability for the child care community.

The ELP will have an unintended impact on the provision of child care programs for the zero-to-three age range. The financial viability and sustainability of many existing programs is linked to the balance with programs for four- and five-year-olds in the child care setting. This needs to be carefully considered to ensure that no family or child is left without the care they require. Our association believes that the early learning program must be accessible for all students, including those children with special needs and our First Nations, Métis and Inuit

students, and that many cultural backgrounds and languages that our students bring with them need to be reflected.

OSPBA requests that the ministry give full consideration to the needs and requirements of our vulnerable kindergarten students with special education and/or medical needs. The change to full-day programming for these students is significant and requires appropriate supports and resources being made available in a timely and planned manner. This necessitates seamless coordination between the various ministries providing medical and ongoing therapies and supports for these children. It is critical that, at minimum, these children do not receive a lower level of service compared to the service they have been receiving through community care access centres and other community-based service providers. We will continue to provide our advice as members of a working group dedicated to special education students.

We recommend that as the curriculum and program documents are developed and fine-tuned for full-day early learning, they include First Nations, Métis and Inuit perspectives that support identity development, particularly through language and culturally relevant materials. Urban aboriginal children in particular can have significant challenges in terms of their identity.

OSPBA feels strongly that children need a sense of history and belonging. The more children know about their first language and history, the more they have the confidence and foundation to be successful learners.

In conclusion, OPSBA members have been supportive of the ELP, and we look forward to a continued collaborative working relationship with the Ministry of Education as the program rolls out.

The Vice-Chair (Mr. Vic Dhillon): Thank you for appearing before us today.

Ms. Catherine Fife: No time for questions?

The Vice-Chair (Mr. Vic Dhillon): You used up all your time.

1440

BEATTY BUDDIES DAYCARE

The Vice-Chair (Mr. Vic Dhillon): Next is Beatty Buddies Daycare.

Good afternoon. If you could please identify yourselves for Hansard, you may begin.

Ms. Lisa Winters-Murphy: My name is Lisa Winters-Murphy, and this is Jeanne McKane. I'd like to thank you, on behalf of the staff I work with and the parents in our centre, for this opportunity. I'm the managing director of Beatty Buddies Daycare, a not-for-profit child care centre operating in Earl Beatty Public School in the east end of Toronto since 1987.

For over 20 years, Beatty Buddies Daycare and many other centres like ours in Ontario have been living out the model of full-day kindergarten with its community focus and collaboration with the school it is located in or near. We have been running programs supporting the early

learning vision of Dr. Charles Pascal, special adviser to the Premier.

We fully support the vision of full-day learning for all four- and five-year-olds in Ontario, but we are concerned that the proposed implementation of this plan outlined in Bill 242 puts other aspects of the child care continuum at risk. The existence of Beatty Buddies Daycare and centres like ours across the province is now under threat as a result of some of the terms proposed in this bill.

In his report, Dr. Pascal recommended the creation of a network of child care organizations to ensure the provision of care across locations and age groups. He recommended an integrated program with improvements for all children from infants to 12 years old.

Bill 242, however, states that school boards, and school boards alone, will deliver programming for four- and five-year-olds, as well as extended day programs for all school-age children. In other words, schools will not be permitted to collaborate with existing community agencies and programs.

The removal of children four and older from child care centres has significant implications for the economic viability of many licensed child care centres, including Beatty Buddies Daycare. We are asking that you revisit the implementation plans contained in Bill 242 and consider their effect on the child care sector, on families and on Ontario's children.

In order to realize the worthy vision contained in Dr. Pascal's report, the government needs to implement all the recommendations of the report and establish programs that benefit children of all ages, not just four- and five-year-olds. There should be capital and transition funding for the early learning and child care sector, and existing levels of funding need to be maintained in the 2010 budget.

As mentioned, Beatty Buddies and centres like ours across the province have been delivering early learning for more than two decades. Our outstanding staff of certified early childhood specialists work hard to design programming that complements the Ontario curriculum, recognizes the needs of the individual child and provides family and community supports.

The original vision in Dr. Pascal's report saw schools becoming community hubs, open to their neighbourhoods and capable of providing opportunities for children's learning, care, health, culture, arts and recreation across the age spectrum. The vision of school as community hub has always been central to how Beatty Buddies and similar centres operate. In addition to providing full-day learning for kindergarten-age children and extended day programming for children ages 18 months to 10 years, we collaborate with school and community groups to support and enrich the lives of families.

For example, while kindergarten-age children are at school, we offer a nursery-school program for families with young children who choose to keep their children at home but want them to develop pre-kindergarten skills to get to know other children in their community.

We fill gaps in board programming and help families access extra supports for children with special needs, including access to Toronto city resource educators.

We hold first aid, CPR and other certifications and act as early learning resources for school staff and teachers.

We have coordinated programs with the family studies program at the local high school.

We offer students who have graduated from the Beatty Buddies program or have attended the family studies program volunteer opportunities to complete high school community service hours or gain experience for future endeavours. This, oftentimes, has led to part-time jobs before and after school with our centre or others like it over the summer break.

We also offer part-time care in the summer and winter breaks for children in the community.

We promote our unique program of male and female staff working together, for which we were recently profiled in the Toronto Star.

Most importantly, we support families with children of different ages that are able to bring their children to one place and watch them learn and grow in the same environment: a place where staff members are able to interact with families as a whole and see how each child fits into his or her family's structure.

There's no doubt that centres such as ours have the knowledge, the skills and the expertise to implement much of Dr. Pascal's vision. But in this era of fiscal challenges, we urge you to also consider the potential advantages of allowing school boards to collaborate with existing programs to deliver all components of early learning. Giving boards the opportunity to partner with existing programs and using existing resources can streamline planning and reduce costs.

We want to be part of the solution, but we need to be brought to the table. If current plans as outlined in Bill 242 are implemented, leaving licensed child care centres out of the planning and implementation, we will see a collapse of licensed child care centres, certified early childhood educators become underutilized and the vision of education in Ontario raising the bar go terribly wrong. This will hurt families, not help them.

Given that Ontario has been facing a severe child care shortage for many years, the potential closure of licensed child care centres and the loss of child care program spaces is certain to create a crisis in this province, worsening the very problem these proposed changes were intended to fix. Full-day learning was never intended to take from one child to give to another.

We look forward to seeing your recommendations for amendments to Bill 242 to ensure that it more completely realizes the vision outlined in Dr. Pascal's report, providing an integrated continuum of early learning for Ontario's children by allowing school boards to collaborate with licensed centres in the planning and implementation of full-day kindergarten.

Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. About a minute and a bit for each side. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you for your presentation. If I were to summarize what I just thought I heard you say, you say that you agree with the concept of full-day learning for four- and five-year-olds because it's a good thing for kids.

Ms. Lisa Winters-Murphy: Yes.

Mr. Kevin Daniel Flynn: But the implementation, though, in your opinion, needs some flexibility.

Ms. Lisa Winters-Murphy: Yes, which is what we are able to provide.

Mr. Kevin Daniel Flynn: Wonderful. I just wanted to thank you for what you did for gender equality in the child care sector. I chaired a child care committee about 20 years ago in the region of Halton and authored a child care study, and I remember feeling a little bit like a round peg in a square hole, so it's nice to know that other guys are getting into the business or are expressing some interest in that. Thank you for your presentation.

The Vice-Chair (Mr. Vic Dhillon): Any further questions? Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much for your presentation. I think we're going to see that theme throughout the course of the three days, and that is the concern about leaving the licensed child care centres out of the planning and the implementation. Obviously, if we're going to meet the needs of all of the children under the age of five, we're going to have to make sure that you're involved in the dialogue and there continues to be a critical role. Otherwise, children three or under are going to be penalized and without an opportunity for care. I thank you for bringing this forward. It looks like, as Mr. Flynn said, you've done a great job.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: Can I ask you—

Ms. Lisa Winters-Murphy: Sure.

Mr. Rosario Marchese: I'm assuming that if the government had implemented all of Charles Pascal's recommendations, you might not have been so unhappy about the potential effects it would have on you.

Ms. Lisa Winters-Murphy: When we were asked to meet at the Ryerson Theatre two years ago, there was a vision of this collaboration.

Mr. Rosario Marchese: Right, and continuum.

Ms. Lisa Winters-Murphy: But since it has actually been—the process seems to be going along. It seems like we've been shut out—completely, actually—out of the process, and that's not the message that we were given two years ago, which I think is why so many of us are so unprepared. Considering we're a not-for-profit, how do you prepare for this uncertain future?

Mr. Rosario Marchese: And that's why you're worried that as they draw the four- and five-year-olds into the school system—

Ms. Lisa Winters-Murphy: That's right.

Mr. Rosario Marchese: —without any supports to the child care providers, you're going to be in trouble. That is the point, right?

Ms. Lisa Winters-Murphy: I'm also concerned about what exactly is going to happen to ECEs. Yes, there's a

message that there will be a partnership within the school boards, but the school boards are cash-strapped. They also have obligations to their own members. To hire ECEs—right now they're being hired hourly, and they're being put under a different union as support staff. So how do you explain that there's a true partnership to ECEs? That's just only going to lower the level of standards of what we offer.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

1450

FAMILY DAY CARE SERVICES

The Vice-Chair (Mr. Vic Dhillon): The next presenter is Family Day Care Services. If you could please identify yourself for Hansard. You have 10 minutes.

Mr. Doug Brown: Good afternoon. My name is Doug Brown, and I'm a board member of Family Day Care Services. I am accompanied today by our CEO, Joan Arruda. On behalf of Family Day, we would like to thank you for the opportunity to present on this very important bill, the Full Day Early Learning Statute Law Amendment Act, 2010.

Family Day is a non-profit charitable organization with a distinguished history of providing services to children and families for over 155 years. Among the first organizations in Toronto to provide orphanages in the 1850s, we were leaders in the development of supervised foster care in the 1920s, were among the first in Ontario to develop day nurseries in the 1940s, and our pilot project in home-based child care in the 1960s became the legislated model for home child care in Ontario.

Today, we continue to deliver high-quality early learning and care. Employing more than 450 staff in Toronto, York and Peel, we offer centre-based child care and school-age programming from 37 locations, operate five Ontario early years centres and provide licensed home child care in partnership with 265 child care providers. In the city of Toronto, we partner to provide special needs resourcing. We provide early learning and care for over 3,200 children and over 10,000 children and their families who access our Ontario early years programs each year.

Family Day supports the government's move to full-day learning and extended day programs for four- and five-year-olds. For many years now, we have been working with our partners in education to develop a joint vision.

Our concerns are about the implementation of this policy—about the unintended consequences that will seriously impact children and families if Bill 242 is passed without amendments.

Ms. Joan Arruda: In our presentation today, we will focus on three key issues and provide potential solutions:

(1) The requirement in Bill 242 that school boards directly operate before- and after-school programs or extended day for four- and five-year-olds, thereby

prohibiting partnerships with local not-for-profit community providers;

(2) The financial impact resulting from the transfer of four- and five-year-olds to education;

(3) The unintended consequences that will occur if Bill 242 is passed without amendment.

We are concerned with the way full-day learning is being implemented and with key provisions of Bill 242. The combination poses a significant threat to the viability of child care in Ontario and will impact the children and families that we support.

Since the announcement of the Best Start program by this government in 2003, Family Day has been actively partnering with other community organizations and boards of education to develop an integrated vision of full-day early learning. We have invested time, energy and scarce resources into moving forward in good faith with this vision.

Therefore, Family Day was surprised that the model of partnership and collaboration was being abandoned for a model of direct delivery of the extended day by the school boards. That is, partnerships with community providers are no longer permitted; they are no longer an option. This will be codified in Bill 242.

A system of child care for before and after school already exists that is ready, willing, and has the expertise to continue to work in partnership with schools throughout the province.

The funding impact for us: There is no doubt that the funding model for child care has its challenges. However, we believe that the impact of Bill 242 will threaten the viability of the sector and its ability to continue to provide quality child care.

The child care system manages on a mixed system of parent fees, government subsidies and a combination of age groupings. The removal of children from the before-and-after or extended day component from our sector will only serve to increase parent fees for the younger age groups. Child care will become unaffordable for families and certainly not viable for not-for-profit child care organizations that will be forced to close programs.

There are other factors that will impact the non-profit community's ability to provide sustainable child care for children between the ages of zero to 3.8. These include:

—the termination of the federal dollars used to fund the Best Start initiative in Ontario; and

—in some areas, the school boards are going to be offering substantially higher salaries to early childhood educators. The issue of recruitment and retention for child care for our younger children will be made even worse for the community providers as many ECEs will be attracted to the higher wages and benefits. Family Day is a unionized work environment that strongly believes we should not be creating a two-tier system of salaries and benefits.

From a child development perspective, zero to three years are the most critical, and children require excellent child care in order to begin school well prepared for their full day of learning. The provision of child care for this

youngest age group is naturally the most labour-intensive and expensive component of the early learning system. Our complex funding system is a balancing act that relies on a mixed system of parent fees, government subsidies and the combination of age groupings in order to remain sustainable. The loss of the four- and five-year-olds in the child care system will dramatically affect our ability to remain viable. Sufficient stabilization funding will be critical to the survival of quality child care for children zero to 3.8.

At the moment, 89% of the programs that Family Day currently operates in Toronto, York and Peel are located in schools; 82% of these programs offer early learning and care for four- and five-year-olds. If the school boards are required to directly operate the before- and after-school programs for children aged four and five, as currently mandated in Bill 242, the financial impact will be devastating to our organization and to many other non-profits. These impacts will result in a significant increase in parent fees for the younger age group, estimated to be at least 25%. The magnitude of such an increase cannot be absorbed and is simply not sustainable for parents or for non-profit organizations. As a result, Family Day will be closing child care centres, parent fees will significantly increase, and there will be a net loss of child care in the GTA.

We really do not believe that this needs to be a consequence of implementing full-day early learning and Bill 242. A comprehensive transition plan with input from the community could address many of the concerns that we've expressed. However, without amendments to Bill 242, these impacts will not be reversible and the price tag for full-day early learning will rise dramatically.

The government needs to immediately announce sufficient and appropriate multi-year funding to stabilize the sector and ensure the provision of quality child care to children aged zero to 3.8. Full-day learning should not be achieved at the expense of the children and families who rely on quality child care for preschool-age children.

Family Day is a member of the Quality Early Learning Network. We support the draft amendments that were prepared jointly by the YMCAs of Ontario, the Quality Early Learning Network and the Boys and Girls Clubs of Ontario.

We therefore recommend that Bill 242 be amended to specifically include not-for-profit community providers as partners in the Education Act, change the definition of the extended day programs, and permit school boards to partner with community providers for before- and after-school programs from four through 12. We also would like to see the requirement for regulations for all matters dealing with the extended day programs as opposed to minister guidelines and policies.

Our agency has a proven track record of providing high-quality, cost-effective services for children and their families. We bring with us a strong legacy of innovation and collaboration and a long history of providing quality early learning and care, and we want to use our resources to work with the government to ensure the best care and

education is available to children aged zero to 12. We all have a shared responsibility to collaborate as equals to provide the best environments for children and their families. Quite frankly, we owe it to them.

Thank you very much for the opportunity to present today, and we are happy to respond to any questions.

The Vice-Chair (Mr. Vic Dhillon): Mrs. Witmer; 30 seconds each side.

Mrs. Elizabeth Witmer: Thank you very much for an excellent presentation. Again, you've really focused on the same concern that we're hearing, and that is the challenge of not involving the not-for-profit sector in the provision of the before- and after-school and also the impact it's going to have on the younger children. So thank you so much. Very good.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: Again, you're not the first to use the words "unintended consequences," not the first to talk about the fact that this good program should not be at the expense of other good programs. You're saying, "If you can do nothing else, make sure that you provide transitional funding and partnerships," to allow you to do the good work you're doing.

The Vice-Chair (Mr. Vic Dhillon): Mr. Flynn.

Mr. Kevin Daniel Flynn: My thanks, as well as everybody else's thanks, I'm sure, everybody else around the table. You've outlined some of the solutions you see should be coming from government: transition funding, that type of thing. What sorts of solutions should we expect to see from the sector? Do you have any ideas of things that the sector itself could do? I know it's going to be hard to answer that in 10 seconds. Are you considering solutions internally as well?

Ms. Joan Arruda: Yes, and I think we've outlined them well in our report.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

1500

ONTARIO PRINCIPALS' COUNCIL

The Vice-Chair (Mr. Vic Dhillon): Next we have the Ontario Principals' Council. Good afternoon. Could you identify yourselves for Hansard before you begin?

Mr. Doug Morrell: Thank you for the opportunity to appear before you today. My name is Doug Morrell. I'm the president of the Ontario Principals' Council, representing more than 5,000 principals and vice-principals in Ontario's public elementary and secondary schools. Joining me today is Ken Arnott, an elementary principal with the York Region District School Board.

Due to our limited time here today, we have prepared a more fulsome submission for committee members. I encourage you to review that document as you continue to study this bill.

As educators, we agree with the concept of an early learning initiative that will help more of our young students be academically ready for grade 1. While we support the intent of this legislation, there are numerous

implementation issues that concern us, as it will be the principal, by and large, who will be responsible for making this work in schools. We encourage the minister to include us in her consultations before the important implementation details come into effect through regulation and/or policy.

The government has indicated that teachers and designated early childhood educators, or DECEs, will be responsible for team-teaching. However, there are few details as to how this will work in terms of planning, providing instruction, preparing report cards, disciplining students, participating in parent-teacher interviews and communicating with parents.

Recommendation 1: Clearly defined roles must be developed for the DECEs and kindergarten teachers. These job descriptions should be provided to principals and boards as soon as possible, so that we can assist our staff with the successful implementation of this program.

There will be a need for teachers and DECEs to meet on a regular basis in order to plan the program. The principal will also need to meet with team members to ensure that curriculum expectations are being met and teaching appraisals are being conducted. This may have to occur during teacher preparation time.

Recommendation 2: In negotiating collective agreements, the government and school boards must ensure that principals have the ability to align kindergarten teacher preparation time in order to ensure that kindergarten teachers and DECEs can meet to plan and prepare for instruction, reporting and communications. This time may also be used for meetings between the principal, the teacher and the DECE.

The legislation proposes that a principal be able to delegate to a vice-principal or another person approved by the board.

Recommendation 3: Since the extended day program must be staffed by at least one DECE, it is both reasonable and practical that a principal also be able to delegate to a designated or lead ECE. The government and school boards must negotiate provisions in the collective agreement that will allow delegation by principals.

Over the past few years, the OPC has raised the issue of appropriate supervision in schools and its impact on student safety. Adding full-day kindergarten as well as a before- and after-school program will increase the need for supervision for children who, by virtue of their age and maturity, are vulnerable and particularly in need of close, constant supervision. We do not have the resources or the ability, due to contract language, to increase this duty.

Recommendation 4: Principals must be given the authority to develop and assign the necessary supervision schedules to teachers, DECEs and other staff working with the early learning plan during both the instructional and extended day programs. The government and school boards must negotiate supervision duties in the interests of the safety of young children. If necessary, the principal must have the ability to require appropriate supervision to ensure safety for all students.

Given the very young age of the children involved—three-, four- and five-year olds—safety must be a priority. While there can be as many as 26 children in a JK/K classroom with the teacher and the DECE, there will be occasions when one of the adults has to leave the classroom for various reasons. That would leave one adult with 26 children, creating a safety issue that we know will be of concern to parents. No one adult can be expected to adequately supervise 26 young children alone.

Recommendation 5: Given the age of the children involved, there must always be at least two adults in a JK/K classroom during instructional time and the extended day program. In some cases, resources will be needed by schools to hire additional trained adults to provide this safety measure.

The DECE staff in schools will add another group of employees requiring orientation, induction, mentoring, assessment, performance appraisal, discipline, oversight and support.

Recommendation 6: We recommend that additional resources are required for the principal to deal with increased workload issues for providing ongoing professional development support to DECEs; a moratorium on DECE appraisals for the first year in order to allow everyone to focus on successfully getting the program off the ground, unless of course there's evidence of gross underperformance; and finally, DECE appraisals that are similar to the current teacher appraisal process, so that they are staggered and, following a satisfactory rating, not required for another five years.

Should DECEs decide to join a union other than ETFO in the public schools and negotiate essentially the same contract as teachers currently have, their planning time may be protected and/or limited in a collective agreement and may not coincide with the teachers'. This will no doubt create various issues around which collective agreement is to be considered paramount, what the responsibilities/duties of the teacher will be if the DECEs strike and vice versa, and how the classroom will be managed and instructed when both the teacher and the DECE are entitled to separate planning time.

Recommendation 7: The government must ensure provincial consistency, so that the collective agreements between teachers and DECEs do not create a situation in which one educator's job description or entitlements are in conflict with the other's. Maximum flexibility will be needed to ensure that students are not caught in the middle of a conflict between unions.

This initiative will require additional professional development for school leaders, so that they understand the concept of play-based learning and become knowledgeable about how and what to look for in terms of reading and writing experiences for younger children.

Recommendation 8: Additional resources are required for school leaders to obtain professional development in this new area.

While we support the concept of an early learning program, there are numerous issues that must be resolved

in order for this to be successful in schools. It is imperative that the government work quickly, and with the assistance of principal associations, to address these concerns, so that we can make this a workable and rewarding experience for our students.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. A little less than a minute each. Mr. Marchese.

Mr. Rosario Marchese: Thank you, Doug. You have raised a lot of good questions, and I've been worried since the introduction of this bill that a good idea can be jeopardized by not doing it right. I've been very worried about the tremendous obligations boards are going to be absorbing without the necessary supports, and I don't see them in the bill. Maybe they're thinking about it; I don't know.

You have raised many questions, including the issue of 26 children. But I remind you that that is an average, which means the numbers are likely to be higher. We're looking at potentially 30 or 32 students; so, supervision and other related problems in the classroom.

You've raised a lot of concerns, and I just hope we're going to get some answers from the government.

The Vice-Chair (Mr. Vic Dhillon): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. I really appreciated the statements you made about child safety. I remember my own child being in school and then travelling to, I think, what was called a first base program that was run by the YMCA. It was a before-and-after-school program. As a parent, you always hoped he got on the bus. You assumed he did, but you always hoped he did. These children, for the most part, I think, will be on-site all day long on all occasions. That's an important consideration.

Out of all the great recommendations you've made, is there any one that stands out as one that's going to be really difficult to address, or are these just challenges that have to be overcome?

Mr. Doug Morrell: I think these are all challenges that are important for the principal to have an understanding of, so that we can address the needs of the kids. And we always hope they get home.

1510

Mr. Kevin Daniel Flynn: But it's achievable. These would be questions that could be answered.

Mr. Doug Morrell: They are questions that we need answers to, to make the program successful.

Mr. Kevin Daniel Flynn: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Ms. Jones.

Ms. Sylvia Jones: Doug, I know that you didn't touch on this in your presentation but because so many of the previous presenters have, I wanted to ask whether the OPC has any thoughts on how they would feel if there was the incorporation of current not-for-profit providers in the school.

Mr. Ken Arnott: Sorry, can you repeat that?

Ms. Sylvia Jones: Sure. Many of the presenters previously have raised concerns that the YMCA and current providers are not going to be part of the model if there are no amendments to this bill. Has the OPC had

any thoughts about how they would feel if the bill was amended with that change?

The Vice-Chair (Mr. Vic Dhillon): Very quickly.

Mr. Ken Arnott: At this point no, because we're still reviewing some of the practices that are going on throughout the province and it's not consistent at this point, so we'd like to explore that a little bit further.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

QUALITY EARLY LEARNING NETWORK

The Vice-Chair (Mr. Vic Dhillon): Next we have the Quality Early Learning Network; Sharon Filger. Please identify yourself, and you may begin.

Ms. Sharon Filger: Good afternoon, everyone. My name is Sharon Filger and I'm the executive director of the Macaulay Child Development Centre here in Toronto, and here is my colleague Elaine Levy, who is the director of child care services for WoodGreen Community Services in Toronto. Together, we're here to speak on behalf of the Quality Early Learning Network, and we thank you for this opportunity to present on this very important bill.

The Quality Early Learning Network represents 16 multi-site agencies across the GTA and Hamilton. Our members provide not-for-profit early learning and care for more than 35,000 children and employ more than 3,000 early childhood educators. Our community agencies are governed by strong boards of directors with close ties to our communities and who ensure the highest standard of accountability and effectiveness. We are a tremendous resource and we want to work with this government to ensure that the best care and education is available to children aged zero to 12.

So why are we here? We want to be very clear from the outset: Our network supports the government's goal of providing full-day learning and extended day programs for four- and five-year-olds. From both an education and developmental perspective, this is good for children and good for Ontario. Our concerns are about how this policy is being implemented. Specifically, we want to raise three issues with you today:

(1) Bill 242 prohibits school boards from partnering with not-for-profit community agencies for the delivery of before- and after-school programs. This simply does not make sense.

(2) There are serious financial impacts on the child care sector that must be addressed by government. Key provisions of Bill 242 threaten the fundamental viability of quality child care in Ontario.

(3) Bill 242 is broad in scope. The legislative framework goes well beyond the government's policy of implementing full-day learning for four- and five-year-olds. As a result, there will be many unintended consequences if Bill 242 is not amended.

The issue of partnerships—and you've heard some of that already this afternoon: To the disappointment of the not-for-profit community, Bill 242 states that school

boards must directly operate the before- and after-school programs for four- and five-year-old children. That is, partnerships with community providers are no longer an option. With this approach, the Ministry of Education is essentially creating a parallel child care system.

We absolutely support the ministry's goal of reducing transitions for children from school and child care, and their desire to ensure consistency of programming and curriculum. But this can be accomplished without creating a parallel child care system and by continuing to build on the already strong partnerships that exist between schools and community providers, many of whose programs are already located in schools. These partnerships are effective and utilize the best that both sectors have to offer.

But Bill 242 goes even further. It permits school boards to offer before- and after-school programs for any school-aged children, including six to 12. This goes well beyond the government's stated objective of full-day learning for four- and five-year-olds.

It is the cumulative impact of all of these changes that is leading to the potential devastation of the child care sector in Ontario.

We ask this committee to consider these important questions: Why is the government turning away from its own Best Start policy that promotes collaboration and partnerships between schools and child care? How can it make sense, especially in these economic times, to build another layer of before- and after-school programs when so many already exist? And why would the government turn away from the community it has already invested so many resources in?

And so, we are recommending that Bill 242 be amended to allow boards to partner with community agencies in the delivery of before- and after-school programs for all-aged children.

The second area is around financial impact and what the impact will be. Based on the current financial model, to be sustainable, child care programs rely on a mix of age cohorts to be both viable and affordable to parents. Based on our preliminary estimates, the removal of four- and five-year-olds will result in increased parent fees in the range of between 10% to 25%.

Therefore, as a result of the transfer of the four- and five-year-olds to the education sector, coupled with the imminent termination of federal dollars for Best Start, a true financial crisis is looming, and this is only with partial implementation.

If school boards must directly operate the before- and after-school programs for children aged four and five, as currently mandated by Bill 242:

- child care will require substantially more stabilization dollars;

- centres will incur deficits that could be as high as 25% of their operating budget, and this magnitude of deficit cannot be absorbed and is simply not sustainable for a not-for-profit organization;

- parent fees will significantly increase, making care unaffordable for many families;

- child care centres may close; and

- there will be a net loss of child care spaces for all age groups in the GTA.

We are here today to tell you that this does not need to be the result of implementing full-day learning and of Bill 242. However, if Bill 242 is passed as drafted, these impacts will be irreversible and the price tag for full-day learning will exponentially increase.

The government has acknowledged that as a consequence of full-day learning, funding will be needed to stabilize the child care sector. To date, we have not had confirmation that this funding is available, or how much that funding will be.

The government, therefore, needs to immediately announce sufficient and appropriate multi-year funding to stabilize the sector and ensure the provision of quality child care to children aged zero to 3.8.

Full-day learning should not be achieved at the expense of the children and families who rely on quality child care for preschool-aged children.

Third, and finally, Bill 242 introduces a number of amendments to the Education Act, the Day Nurseries Act and the Early Childhood Educators Act. It is far-reaching in scope. It goes beyond granting legislative authority for full-day learning for four- and five-year-olds. It grants considerable power to the minister to issue guidelines and policies on the operation of extended day programs, thereby exempting them from the standards and regulations under the Day Nurseries Act.

Bill 242, if passed, will impact the model of early learning and care for all children. Therefore, we believe it needs broader consultation with the community. We need to be a part of a broader discussion on what the framework is for children aged zero to 12. This is important public policy.

We understand that September 2010 is around the corner. We are certain that the amendments we are recommending will ensure a successful transition for full-day learning.

Full-day learning is great policy. Let's make sure we get it right. We can then turn our collective minds to what needs to be done to ensure a quality framework is developed for children zero to 12.

The Quality Early Learning Network, with the YMCAs of Ontario and the Boys and Girls Clubs of Canada, has drafted specific amendments that we have distributed to you today.

We ask that you amend Bill 242 to specifically include not-for-profit community providers as partners in the Education Act; that you change the definition of "extended day programs;" that it permit school boards to partner with community providers for before- and after-school programs for four- and five-year-olds; that it permit school boards to partner with community providers for the delivery of programs for children aged six to 12; that it require regulations for all matters dealing with the extended day programs, as opposed to ministerial guidelines and policies.

1520

A strong and healthy child care sector will ensure the success of full-day learning programs for four- and five-year-olds, as it will ensure that they are developmentally prepared for the school setting. To succeed, we must build on current partnerships, recognizing that both systems provide essential services for children and families in Ontario.

Thank you for this opportunity to present. We're happy to respond to any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Filger. We have about 15 seconds per side.

Mr. Rosario Marchese: I just want to tell you that, in my experience, governments make very few changes to their bills. I urge you to continue to write letters to the minister and to the Premier so that you can be heard.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Kevin Daniel Flynn: We have a system that has evolved over the years, and there was a need for child care, and groups like the non-profit sector stepped into the void. We all hoped we'd get a national child care strategy. That didn't come. If we have a system that has evolved—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn.

Ms. Witmer.

Mrs. Elizabeth Witmer: I would just say thank you very much. The 15 seconds isn't a lot of time, but we appreciate your presence.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Filger, for your deputation and presence on behalf of Quality Early Learning Network.

BOYS AND GIRLS CLUBS OF CANADA

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward. Ms. Jolliff and Ms. Morris of the Boys and Girls Clubs of Canada. You have likely seen the protocol. You have 10 minutes in which to make your combined presentation. Any time remaining will be distributed amongst the parties for questions. As we have a huge number of presenters, we'll be enforcing the time with military precision. I'd invite you to please begin now.

Ms. Sandra Morris: Good afternoon. My name is Sandra Morris. I'm the regional director, central region, for Boys and Girls Clubs of Canada. I'm accompanied today by my colleagues, Harold Parsons, the executive director of the Boys and Girls Club of Kingston; and Duane Dahl, the assistant director of Boys and Girls Clubs of Hamilton.

Boys and Girls Clubs are leading providers of before- and after-school programs that support the healthy physical, educational, emotional and social development of young people. Our 25 local clubs serve more than 110,000 children per year at more than 160 locations across Ontario.

Consistent with our whole-child, life-cycle approach, these young people participate in programs ranging from licensed child care, to high-quality before- and after-school and summer programs for school-aged children, to youth leadership programs and initiatives.

Children, youth and families rely on us to provide programs that make a lasting, positive difference in the lives of Ontario young people, with many young people establishing a lifelong connection to their local club.

Our curriculum-based programs are offered in a variety of settings, including schools, social housing, recreation centres and Boys and Girls clubhouses, with more than 40% of our programs now offered in schools, and clubs providing seamless transitions from schools to other settings through safe walk and busing programs.

Boys and Girls Clubs partner with many of the organizations that are here today, and we're pleased to be working with several of these organizations on this important issue.

So why are we here? Boys and Girls Clubs support Ontario's goal of establishing a full-day learning system and making this system available to all four- and five-year-olds. We recognize that the proposed full-day learning system will result in significant new provincial investments in extended day programs for four- and five-year-olds, and commend the province for taking action to make these programs available to all children and families.

We are here today because, like other organizations, we have serious concerns with the implementation plan for full-day learning reflected in Bill 242, and we believe we have insights to help make this bill better for children and families.

We have three main concerns with the bill as now drafted:

(1) It requires that school boards shall operate extended day programs for four- and five-year-olds, thereby preventing boards from partnering with community organizations;

(2) It states that boards are authorized to operate programs for school-aged children, while not indicating that they may partner with local community providers in doing so; and

(3) If enacted as now drafted, it would result in the loss of existing critical program spaces, and require additional funding to stabilize the sector.

We would like to speak to each of these issues individually, but would note before doing so that with our partner organizations, the YMCA Ontario and Quality Early Learning Network, we are tabling proposed amendments to the legislation aimed at addressing these issues and strengthening the bill for children, families and communities.

Ontario's current system of extended day programs for young people includes hundreds of high-quality child care and early learning programs for four- and five-year-olds delivered by community organizations, both in school settings and outside of them. As now drafted, Bill 242 would require school boards to operate extended day

programs for four- and five-year-olds in schools even if a community-based organization was operating an extended day program for four- and five-year-olds in the same school. Community organizations would be prevented from bringing their expertise to the new system and working with the province to achieve key goals for the full-day learning system. If enacted as drafted, these provisions would serve to destabilize the child care and community sector and result in the loss of existing critical spaces for children and families.

We are also concerned, in the absence of details about the new fee structure and subsidy system, that the requirement for boards to provide extended day programs on a cost-recovery basis could result in a two-tier system in which low-income children and families are unable to participate.

Boys and Girls Clubs is particularly concerned about the provisions in Bill 242 related to extended day programs for school-aged children. At first glance, these provisions appear to simply codify the right that school boards now have to operate extended day programs for school-aged children—while not clearly indicating that boards may partner with community organizations in doing so. In fact, if the definition of extended day programs in Bill 242, as now drafted, was not amended and a school board decided to operate an extended day program for school-aged children, it would be prevented from partnering with community organizations in the delivery of that program—which would, by definition, be board-operated. The unintended negative impact of this section would be to discourage school boards from partnering with community providers, and community providers from continuing to operate programs for school-aged children, resulting in a loss of current spaces and choice for parents and families.

We are also concerned that Bill 242 broadens the full-day learning system to include programs for six- to 12-year-olds when the unique requirements of programs for school-aged children are not identified. For example, though the bill indicates that extended day programs for four- and five-year-olds would be staffed by early childhood educators, it does not outline the staffing requirements for programs for school-aged children, which differ from those for younger children.

Boys and Girls Clubs has worked with schools, school boards and a wide array of other community partners to provide programs for school-aged children, and we believe that our role and expertise—and that of other community partners—will be essential to help achieve key goals for the new full-day learning system.

In recent months, we have been delighted to expand our after-school programs for school-aged children and make these programs available to more Ontario young people with assistance from the \$10-million Ontario after-school framework and strategy, launched by the Ministry of Health Promotion in collaboration with the community sector and other provincial ministries, including the Ministry of Education. We believe that this initiative, which combines broad provincial goals for the

after-school system for school-aged children with active local community partnerships, could be expanded to achieve key goals for the full-day learning system for children aged six to 12 quickly, cost-effectively and efficiently, in a way that both draws upon and reinforces active community partnerships for young people.

Whether the Ontario after-school strategy is expanded or not, we are requesting, with our partner organizations, an amendment to Bill 242 to allow school boards the option to enter into and continue to build partnerships with community providers.

As other organizations have indicated, the implementation of Bill 242 as now drafted will destabilize the existing system of quality child care and extended day programs for children and result in the loss of existing critical spaces and programs. To avoid this circumstance and the need for increased stabilization funding for the sector, Boys and Girls Clubs and our partner organizations are requesting specific amendments outlined in the document that we are tabling with the committee today.

We believe that the responsibility of achieving the goals of the full-day learning system cannot be achieved by any single institution, ministry of government or community organization acting alone, but will instead require the expertise and collaboration of non-profit agencies, parents, families, ministries of government and other community partners working together under a single provincial framework in local communities across Ontario. Our requested amendments are predicated on that belief.

1530

Boys and Girls Clubs are committed to helping the government achieve its goal of implementing a new full-day learning system. We have a more than 100-year history of providing comprehensive, integrated, high-quality before- and after-school programs for young people and want to be part of transforming the current system to meet the goals of the full-day learning plan while meeting the needs of children, families and communities.

We thank committee members for their time, and we'd be pleased to take any questions you might have.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Morris. Again, 30 seconds or so per side. To the government, Mr. Flynn.

Mr. Kevin Daniel Flynn: Well, in 30 seconds I can thank you. Obviously this deals with four- and five-year-olds. You also deal with zero- to 3.8-year-olds and six- to 12-year-olds. What plans do you have for those age groups as this moves on?

Ms. Sandra Morris: I referenced the after-school strategy launched by the Ministry of Health Promotion. I think that particular strategy provides an example of a collaborative approach in which the community sector was involved with the province and with outside experts in a provincial framework, provincial goals that draw on our expertise about community delivery—

The Chair (Mr. Shafiq Qaadri): I apologize, Ms. Morris; I'll need to intervene there. Ms. Witmer.

Mrs. Elizabeth Witmer: I appreciate the fact that you have joined with the YMCAs and the Quality Early Learning Network. I do think that, certainly, your concerns are similar. I think it would be incumbent upon the government to give serious consideration. I thought I heard Mr. Ramal say that maybe that was indeed going to be happening. I think it's critical to any success that we would hope to enjoy as a result of this initiative.

The Chair (Mr. Shafiq Qaadri): M. Marchese.

Mr. Rosario Marchese: The concerns are valid. We're hearing it constantly now. I suspect that's what we'll hear for the next couple of days. I just urge you to be vigilant. I urge you to keep writing letters to the Minister of Education and to the Premier. As much as I like these guys, we can't rely on them to listen to all the recommendations you're making.

Interjections.

Ms. Sandra Morris: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Morris, and to your colleagues, for your representation, deputation and written submission on behalf of the Boys and Girls Clubs of Canada.

FAYWOOD BOULEVARD CHILD CARE

The Chair (Mr. Shafiq Qaadri): I'd now invite Ms. Cullen of the Faywood Boulevard Child Care. Welcome, Ms. Cullen. I invite you to please begin now.

Ms. Kim Cullen: My name is Kim Cullen. I'm a grandparent of two young children, a registered early childhood educator and the executive director of a non-profit centre run by a parent board of directors that offers quality care to over 100 children each year. The centre is located in a Toronto District School Board elementary school. I have been in the field for over 20 years.

Full-day learning, as it appears to be rolling out, and Bill 242 are two of the biggest mistakes the government is making, and both will have negative impacts on the young children in our province. Dr. Charles Pascal provided the province with a report that appeared to be a solid foundation for the young children in our province to have equal opportunities for equal learning. Unfortunately, after the delivery of the report, the province rushed into moving ahead with full-day learning and has not delivered it with the best interests of the children in mind. Bill 242 will provide full-day child care for children, but will it really provide the opportunity for children to have access to full-day quality learning programs? Will the extended day offered be a safe and nurturing environment for young children?

Teachers and trained registered early childhood educators working collaboratively together to facilitate the learning of four- and five-year-olds appear to be a solid professional team to deliver a program that will prepare four- and five-year-old children with the skills necessary to enter grade 1. Unfortunately, Bill 242 permits boards to grant a letter of permission to untrained people to work with a teacher in the class, and this is evident throughout the bill. We should not allow the bill to pass its third

reading. The children of Ontario deserve to be offered quality early learning programs where they are actually having the opportunity to be educated by a professional team and not simply placed in a room with one teacher and an untrained person.

The boards are looking at a class size of 26 up to 29 children in one room; today, I'm hearing possibly 32 children. It may sound good to you, but what happens when you have one child with special needs or a severe behaviour problem or who's not fully toilet trained? Now you have one staff member dealing with that child while the other is trying to supervise the remainder of the group.

Currently, I supervise a program of four- and five-year-olds with a class size of 18 and two trained staff. The staff are extremely busy working one on one with each and every child daily to ensure that the children enter grade 1 with good self-esteem and the skills necessary for successful learning.

All of our children can read, but reading is not the only skill a child needs to be successful. It would be impossible for children in a group size of even 26 to have the same quality of program, especially when you allow untrained people to work in the classroom. Untrained people do not have the behaviour management experience and the skills to manage a class of four- and five-year-old children.

The extended day program should be required to fall under the current legislation of the Day Nurseries Act. Let me emphasize the word "current," because the proposed change to ratios is ridiculous—and that is a whole other discussion. The current act is in place to ensure safe and quality care of all children currently in licensed child care. Four- and five-year-olds should not lose quality care, which is likely to happen if Bill 242 passes. The province should insist that any extended day program fall under the current legislation of the Day Nurseries Act. We should not let Bill 242 pass final reading with the current language if we want to provide a safe and nurturing environment for four- and five-year-olds.

Extended day programs should not be left to the principals or someone the board designates. These programs should be managed by professionals who are currently in the field of early childhood education. They have years of experience ensuring quality care for children and can provide leadership and training to staff. Directors of child care centres are currently required to have a minimum of two years' experience and have to be approved by the Ministry of Children and Youth Services. They have the time to establish working relationships with parents, which enables them to support the family with payment options, suggestions for behaviour management, discussions on family events that could affect the child, etc.

Current child care centres should continue to operate the extended day program for four- and five-year-olds and all children who require safe, quality and nurturing care. Why would the province of Ontario tear apart a system that works well for children and families? We should not let Bill 242 destroy our current child care system.

It is the law to call the children's aid society when you suspect abuse. In a resource manual, *Making a Difference: The Community Responds to Child Abuse*, there's a definition: "Neglect is defined as the chronic inattention or omission on the part of the caregiver to provide for the basic emotional and/or physical needs of the child, including food, clothing, nutrition, adequate supervision, health, hygiene, safety, medical and psychological care, and education." Emotionally neglected children do not receive the necessary psychological nurturance to foster their growth and development. The consequences of neglect can be very serious, particularly for young children. A child who does not receive adequate emotional, cognitive and physical stimulation, physical care and nutrition will lag in development. These lags in development may be irreversible.

Bill 242 is jeopardizing the health and safety and potential learning for our children. Nutrition has not been considered. What about the child who has an anaphylactic reaction to certain kinds of foods? If children are bringing lunch and snacks into the room, how will you protect that child? How will two staff members—one, if the other is busy—protect that child from being exposed to a food allergen during the lunch period during full-day learning from having a reaction and possibly dying?

This bill is putting our young children at risk. Think about your own children, your nieces, nephews and grandchildren. You would want what is best for them. So please do what is best for all children and do not let this bill go forward. Remember: What harm we do now will not be reversible later. Full-day learning and care should set children up for success and not failure in the future.

Please do not pass this bill without further consideration. The future of our young children is in jeopardy, and there should be more time and consideration taken to revisit the language that is currently in this bill. Passing this bill will not be equitable for families that do not have the financial means to make the choice between public education and private education where the ratios would be better.

1540

Every child should have the right to quality early learning and care in an environment that is safe, staffed with professionals and has smaller class sizes. The rollout of the early learning program and the passing of Bill 242 will be nothing but free, poor-quality, all-day child care between the hours of 9 and 3. Charging parents a fee to leave their children in a poorly run extended care program is not responsible.

The cost for school boards to recover the cost of child care will create much higher fees for parents, because there will be higher staff salaries and union contracts that will require boards to use their services for everything from painting to changing a light bulb. It cost our centre \$8,000 to paint two classrooms and \$775 to install the dishwasher, because we are located in a TDSB building and are required to use their unionized employees. And the list goes on.

Fortunately, there are some things we can do on our own, but if the school board is running the centre, it will

have to use unionized school board employees for every job and supply that is required, and that will drive up the cost of recovery significantly.

Leave extended care to the professionals who have been providing it for years, and give parents the confidence in our government that the best interests of children are being taken into consideration. Do not let this bill pass its final reading.

In summary, we should revisit the language in the bill to look at establishing smaller class sizes; to ensure a safe and nurturing environment where all children will actually learn and not fall under neglectful conditions; to make it mandatory that any programs, whether all day or extended day, are required to meet the current legislation of the Day Nurseries Act; and to remove school boards as being required to run extended day programs. Current child care centres should continue to offer these programs. We shouldn't tear apart a system that is already working, at the expense of children. We should revisit the idea of school boards running child care, as parents cannot afford to pay more for child care fees.

The Chair (Mr. Shafiq Qaadri): On behalf of all members of the committee, I thank you for your presence and your deputation and submission today.

BUILDING STRONGER FUTURES

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, Ms. Fleming and Ms. Juana Maria Diaz, of Building Stronger Futures, to please come forward. Welcome, and please begin.

Ms. Juana Maria Diaz: Good afternoon. With me today is Christine Fleming. We are concerned parents and members of a group called Building Stronger Futures.

Building Stronger Futures is a group led by parents and tenants of Toronto Community Housing. We have come together, because we are concerned about the healthy development of our children and the million children who are always left behind across Ontario by a lack of long-term stable funding for children's programs. We are calling on the province to implement a full-day, full-year learning program for all of Ontario's children, including the often forgotten middle years.

We acknowledge the step the government has taken toward implementing full-day kindergarten, but our concern is about children in the middle years—those children who are between the ages and six and 12—being left behind. These are critical years in a child's development, and the province cannot leave a programming gap between early childhood and youth if we want steps such as all-day kindergarten to be effective.

As parents and tenants, we experience the lack of middle childhood programs first-hand. We know the stress families experience as we struggle to find and afford quality children's programs while balancing the demands of work and family. It's hard to be a single mom who has to start working at 7 a.m. and get home by 4:15, knowing that our kids get home by 3:30. We know

what it's like to have to work long hours at more than one job to make sure that we pay our bills and to not have time to take our kids to the park; to not have money to pay for our kids to be in programs where they learn, have fun and socialize. This is during the time when children are in school. What about during school breaks, like last week, March break, or summer break? What do our children do then? Where do our children go? What do our children do? How do we parents continue to work when we are always worried about where our children are and if they are safe? We know that the need for a full-day program is immediate, and we urge the province to address this issue with a dedicated funding strategy and real commitment in Bill 242.

We are here today because we are concerned not only about our children and families in Toronto Community Housing, but because we are concerned about all the families and millions of children across this province. Too many of us struggle during times like these to find quality, affordable and accessible children's programs. We are here today to call on the provincial government to make sure that children between the ages of six and 12 are not forgotten in this province—as they have been for years—and that full-day learning is seen as a continuum of care for our children, not as a threat to our already struggling child care, early years and youth programs. We need to make sure that all children are a priority in this province.

Ms. Christine Fleming: We know that it might seem like we're asking for a lot, to expect that the province will make all children between the ages of zero and 12 a priority right now. We know that it might look like being unreasonable, because of the economy. But what we also know is that there is really a good plan and strategy that has already been created.

Our Premier appointed Dr. Charles Pascal to be his special adviser on early childhood learning. In June 2009, Dr. Pascal presented his report titled *With Our Best Future in Mind: Implementing Early Learning in Ontario*. Dr. Pascal said in his report that the province should create a continuum of early learning child care and family support for children, from the prenatal period through youth, under the leadership of the Ministry of Education. When we look at what is being proposed in Bill 242, we see that a million Ontario children between the ages of six and 12 years are still being left behind, in need of the stable, dedicated out-of-school program that Pascal recommends.

Many children in this age group are not old enough to be left at home alone. This is leaving working families to contend with a patchwork of services. Children are often left in the care of older siblings, who shoulder an unfair burden as a result of a lack of programs. Unlike youth and children in their early years, one million children aged six to 12 across Ontario are being left behind. Not having middle childhood programs threatens our children's safety, development and preparation to face the challenges of their approaching teen years. We are already seeing the effect of excluding the middle

childhood years for children and youth programs. How many more at-risk youth will result from leaving one million children behind?

1550

We acknowledge that the provincial government has taken some first steps towards implementing full-day kindergarten. We have also seen that the school boards will permit before-school and after-school programs for older children aged six to 12. But this is not enough. Just giving someone permission without the money or resources to carry it through is not a good enough plan.

We are sure that every school will want to have an out-of-school program, but expecting schools to pay for the program—and what if there is the need of an out-of-school program but the school does not accept it? In the end, it's always our children who suffer.

We also are concerned that these first steps come at the expense of many other children. We see child care spaces threatened. We do not want to see priorities shift to different age groups. We want to see our children be a priority in this province.

Mr. Pascal says that to apply his whole strategy would probably cost about \$790 million to \$990 million. We know that's a lot of money. We've been told by some MPPs, when we have been meeting with them to talk about this, that there just isn't money to make this happen right now. But to people who tell us this cannot happen right now, we have two questions: How much more will it cost in the future if we continue to neglect one million children, and what is a child's potential worth these days?

We are not coming here today because we have all of the answers, but we have a need. Our children have a need. Children between the ages of six and 12 have been waiting far too long for this declaration of funding for affordable, accessible, quality out-of-school programs. We have added our voices to many others who are concerned about Ontario children—our children.

We remain Toronto Community Housing parents and tenants who are calling on the provincial government to implement all the recommendations in Pascal's report. This report outlines a strategy to ensure children in the middle years will finally no longer be left behind in Ontario.

Thank you very much.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Fleming, for your precision-timed remarks.

Remarks in Spanish.

HOME CHILD CARE ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qadri): I would now invite our next presenters to please come forward: Mr. Volonakis of the Home Child Care Association of Ontario, and colleague. I would respectfully invite you to please begin now.

Mr. Spyros Volonakis: Good afternoon. My name is Spyros Volonakis, and I'm here today with my colleague

Marni Flaherty. Thank you very much for the opportunity to present in front of you today.

The Home Child Care Association of Ontario applauds the government of Ontario for recognizing the critical importance of early learning and care for the well-being not only of children but of their families and our province as a whole. To that end, the association supports the principles of full-day early learning. However, the association is very concerned about the way in which the government is implementing this initiative.

We have a number of specific recommendations to make, and we would like to begin with these recommendations.

Amend subsection 259(1) to require boards of education to deliver the extended day component in partnership with not-for-profit community providers.

Add a clause to Bill 242 that states that existing dollars supporting the subsidy system in the licensed child care sector will remain within this sector, and that additional funds will be allocated to provide the subsidies that the act mentions, which will be necessary for some families to access the extended day program.

Amend Bill 242 to state explicitly that extended day programs for children aged six to 12 are to be delivered in partnership with not-for-profit community providers.

The Home Child Care Association of Ontario strongly supports the recommended amendments to Bill 242 that have been proposed by the Quality Early Learning Network, and urges you to consider acting upon these recommendations.

Who we are: We represent 75 licensed home child care agencies providing services across the province. These agencies refer children to 7,500 home child care providers who work with newborns to 12-year-olds. Agency staff support providers, parents and children with a range of services. Agency staff maintain regular contact with providers, ensuring that their operations comply with all requirements of the Day Nurseries Act and local government criteria.

A testament to the success of this licensed child care model is that upwards of 80,000 children are in this system. This is the choice of their parents. The Home Child Care Association's philosophy is anchored on the following principles:

- early learning programs must be high quality;
- parental choice is critical;
- the diversity of Ontario's families must be reflected in the early learning and care opportunities for children; and
- early learning and care programs are strengthened when all sectors actively collaborate. This includes a real role for not-for-profit community providers.

Ms. Marni Flaherty: Our concerns: Bill 242—

The Chair (Mr. Shafiq Qaadri): I'd just invite you to identify yourself, please. Everything said in this room becomes the permanent record of Parliament, so we need to identify people.

Ms. Marni Flaherty: Absolutely. Marni Flaherty.

Bill 242, as currently formulated, undermines some of these principles and sets the stage for the eventual elimination of licensed home child care. Two issues in particular stand out as overriding weaknesses.

First, the bill, as written, precludes partnership with community agencies. The consideration is very significant, because many families use licensed home child care because they work non-traditional hours and it is the only type of care that can accommodate their child care needs. While there is no indication that school boards will offer extended day programs beyond the traditional before- and after-school hours, if home child care becomes financially unviable for providers, it won't be long before licensed home child care ceases to exist as an option. By contrast, if schools could develop partnerships with agencies, they could capitalize on the existing operations to focus on what inevitably will be their primary concern: the successful implementation of full-day early learning.

There is an existing infrastructure in many communities that delivers high-quality before- and after-school care. The licensed home child care sector is part of that system. It does not make sense to reinvent the wheel and set up a parallel system. Perhaps more significantly, the spirit of the proposed bill suggests that it is simple to set up before- and after-school care, such that schools can, in effect, proceed with double initiatives: a full day of learning and child care. With the greatest respect, this is both naive and short-sighted. More significantly, such double efforts may undermine both initiatives.

In light of these concerns, the Home Child Care Association is suggesting that Bill 242 be amended to encourage community partnerships. Separate and apart from what additional regulations and processes the ministry might implement, there ought to be provisions in the legislation that expressly require community partnerships. There is really no limit to the creativity over the types of partnerships that might be pursued, and indeed, these may range vastly from community to community. It is also possible that in areas where there is no community infrastructure, school boards might be the best option for delivery of the extended child care. But in those areas where there is an existing infrastructure, boards and non-for-profit community providers should be required to collaborate and provide an integrated program.

The lack of clarity about how the system for six- to 12-year-olds will be managed creates further stress on families and on the community providers that support them. School boards should partner with community providers for the delivery of extended day programs before and after school for children aged six to 12, and for professional development days and summer programs for all school-aged children from four to 12 years old.

The bill is not clear about how the subsidy system will work. The subsidy system must be available to all eligible children, regardless of the child care model they may choose.

The bill also proposes changes to the Day Nurseries Act, the Education Act and the Early Childhood Educators Act. The Home Child Care Association is of the

view that the Day Nurseries Act needs serious updates and revisions. To that end, the association has been working with the Ministry of Children and Youth Services to address some of the challenges in the act.

1600

The government did not engage a process with consultation and preparation from the relevant stakeholders regarding Bill 242. This is important public policy. It requires a broader consideration with the community. Let's turn our collective minds to ensuring that a quality framework is developed.

Mr. Spyros Volonakis: Mr. Chair and committee members, the Home Child Care Association of Ontario supports the introduction of full-day early learning for all children 3.8 to five years old in Ontario, and it looks forward to working with the partners in the education and children's services sector to make this initiative a success.

The association believes that this initiative can be rolled out in a way that builds on the strengths of the existing licensed child care sector and that the recommendations as presented will go a long way to allow for the success of full-day early learning for four- and five-year-olds.

Thank you for giving us the opportunity to present today.

The Chair (Mr. Shafiq Qaadri): We'll have about 30 seconds per side, beginning with Mr. Flynn.

Mr. Kevin Daniel Flynn: I think my colleague has a better question than I do.

The Chair (Mr. Shafiq Qaadri): Mr. Johnson.

Mr. Rick Johnson: There have been a number of people who have raised the question today that this will severely impact the private daycare operators. We know that there are numerous people on the wait-lists—I've heard as many as 15,000—waiting for subsidies and stuff in Toronto, up to 70,000 across the province. Do you think that this plan, by having a full day, will help eliminate some of the backlog that currently exists?

The Chair (Mr. Shafiq Qaadri): I'm afraid that question will have to remain rhetorical. To the PC side: Mrs. Witmer.

Mrs. Elizabeth Witmer: Sure. I'll take on Mr. Johnson's question, and you can answer it.

Mr. Spyros Volonakis: Sure. It appears that there are many, many children on the waiting list; however, the system is very vulnerable when we lose the four- and five-year-olds—that's number one. Number two, as we speak, we provide, as non-profit community agencies, child care in partnership with schools and communities. Why not continue doing that, as we have been doing that for so many years.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: I think a big part of your focus is the extended programs, before school and after school. Both of you were saying that if you can't provide those programs, some of those that are affiliated with you might not be able to survive. Is that correct?

Mr. Spyros Volonakis: That's part of the reason, but the other piece is that we have been there. We are there right now—

Mr. Rosario Marchese: No, I understand. But are some of you threatened, seriously?

Mr. Spyros Volonakis: We are, because if we lose the four- and five-year-olds, the—

The Chair (Mr. Shafiq Qaadri): With respect, I'll need to intervene there, Mr. Marchese. I thank you, Mr. Volonakis, and you, Ms. Flaherty, for your deputation and presence on behalf of the Home Child Care Association of Ontario.

Just before we call the next presenters, I would like to acknowledge for the committee and all of those present the presence of Mr. Charles Beer, former member of provincial Parliament, who served this Legislature and Ontarians from 1987 to 1995. Welcome, Mr. Beer.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward, Mr. Coran and Mr. Leckie of the OSSTF, the Ontario Secondary School Teachers' Federation, and colleague. I invite you to please begin now.

Mr. Ken Coran: Ken Coran. I'm the president of the Ontario Secondary School Teachers' Federation. Beside me to my immediate right is Dale Leckie. Dale is our director of protective services; he is also the chair of our early learning program coordinating committee. To my far right is Brad Bennett. Brad is formerly from the Greater Essex County District School Board. They did have a successful JK-SK program a number of years ago, and he has been very influential in earlier discussions with Charles Pascal and the development of the program. So, between the three of us, we're hoping to try to touch bases on a few things.

We're going to do it in basically two stages. The first stage will be to focus on the bill itself, because there are some concerns based on previous legislation that the government passed back in 2007, the Early Childhood Educators Act and the College of Early Childhood Educators, with this new legislation. So we'll look at that briefly and we'll also look at some of the problems that we can see down the road with regard to the implementation.

I'll turn it over to Dale Leckie, first of all.

Mr. Dale Leckie: Thanks, Ken. I will say from the outset that OSSTF was in favour of Dr. Charles Pascal's position on early learning and the early learning plan. OSSTF already represents early childhood educators who are working the field and early childhood educators who are working as education assistants, doing a similar job as the proposed early learning plan.

We also want to emphasize two pieces that are essential for the success of the plan. Number one is that it is a team approach that is used for the plan and, number two, that it's a seamless day, from the before and after program and the instructional day.

As far as the bill goes, there are a couple of issues that we want to clarify. It does say in a number of places in the bill that there is in each class a certified teacher and a

designated early childhood educator. There are some concerns out there that we have heard, that there was going to be some class size threshold to apply the team approach. We want it to be very clear that this program runs and is successful and has credibility when both members of the team are delivering the program. We know there are a number of areas of funding that are of concern, but if there is a concern about enough kids in a class, for example, to make the team approach viable, we have to look at combining the classes, possibly, of JK and SK, in order to maintain the team that is presenting the program, as opposed to creating a class size threshold that brings the ECE in as an enhancement.

Another issue that presents itself is the definition and the roles of the two jobs. I know it is clear in the bill that it references a qualified teacher as “teaching” and the designated early childhood educator as “working.” I think that’s an important designation, but I also think that the bill, through regulation or policy, needs more clarification. We agree that there are distinct duties that the teacher has in the program and distinct duties of the early childhood educator. In the description and the fact that they’re both members of education-type colleges, we do think that there could be some areas of conflict, possibly, and overlap as part of the program.

We understand there needs to be flexibility, we understand there needs to be the ability for the members of the team to design a program that’s going to suit their needs, but we think there have to be clear duties assigned and we need both members of the team to report to the same supervisor—the principal of the school—and, in the definition you have in the bill, to coordinate and co-operate. It shows in section 264.1 “the duty of the following persons to coordinate.” There is some risk, we feel, both being members of separate colleges, if a complaint goes to the College of Teachers or the College of Early Childhood Educators, that the other team member will refuse to co-operate, that there should be some penalty laid. We think there has to be some clarification that a dispute over co-operation might be a difficult one to deal with at one of the particular colleges.

We also feel that in the bill there has to be some recognition of the other additional services that the kids in the program may need, additional professional support personnel, additional special ed expertise, that sort of thing.

I will pass it on to Brad Bennett, who can talk about an established program that we have up and running.

Mr. Brad Bennett: Thanks, Dale. Brad Bennett.

Just from my perspective, we’ve been out there making contact with school boards in anticipation of the legislation, and just a week ago Friday we reached our first agreement with a school board as to what the program would look like, assuming it looks like it does in the current bill.

1610

The federation has said from the beginning that there would be cooperation working with school boards to make sure that this thing rolls out. There are concerns, as

Dale mentioned, in particular funding concerns, but in discussions that we’ve had with school boards, in particular where we’ve reached agreements, it looks like this thing should be successful. We just have to really look at the issues that Dale mentioned along the way, but it’s certainly not out of the realm of possibility to make it work, and work well.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. A minute per side, Ms. Witmer.

Mrs. Elizabeth Witmer: If I hear you clearly—all afternoon I’ve been hearing from daycare providers and the Y and the Boys and Girls Clubs indicating that if they’re not allowed to continue to provide the before and after care, the provision of some of the child care services they offer will be in jeopardy. But I think what I’m seeing is that you don’t support that continuation. You see this being a role within the school.

Mr. Dale Leckie: We think there are tremendous advantages to being in the school to provide the before and after program. We think that there are assets in the physical school building that can be used—the library, the gymnasium etc. We also think that the seamless day is the flow from before school into the instructional day with the same early childhood educator who is going to move through. We think that child shouldn’t notice when the early bell rings, that that play-directed program that is going to move through the—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. Mr. Marchese.

Mr. Rosario Marchese: You raise some good questions, and I suspect many of these questions can be resolved. I really believe that, although there are some other difficult areas that may not be so easily resolved. One of them is class size. For me, an average class size of 26 is a great number. It’s an average, which means it could be 30 or it could be 32. There’s no cap. We have a cap on primary grades, but there’s no cap here, which suggests to me that they want class sizes to be a bit higher than the average of 26. I’m seriously concerned about that. Do you have an opinion on that?

Mr. Dale Leckie: We’re absolutely concerned. We think there should be a hard cap on the class size. You have to understand the 13-to-1 adult ratio that’s described in some of the documentation doesn’t necessarily mean that there are going to be 13 in one group and 13 in another group. I think the 13-to-1 ratio is going to allow the teacher to be with a group of students—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. To Mr. Flynn.

Mr. Kevin Daniel Flynn: If I understand what you said, you support the bill but you think that we should consider some changes, and I guess it’s our job to consider those changes. But sometimes you sort of get into the weeds on these things—and you want to get into the weeds because that’s where the changes are made. But it is, at the end of the day, all about kids.

From your experience, the kids that have gone through the enhanced and the robust JK and SK, how does that manifest itself by the time they get to secondary school?

Mr. Brad Bennett: Well, I don't have hard data on this, only anecdotal from speaking with people who were involved with the program when it was previously much like this, with the teacher-ECE team, and then, because of funding restraints, it went back to being just a teacher model. Those working with the children said that it was absolutely night and day. There was a loss to the program and to the educational opportunities.

Mr. Kevin Daniel Flynn: So it had been a tremendous positive.

Mr. Brad Bennett: Absolutely.

The Chair (Mr. Shafiq Qaadri): I need to intervene there. Thank you, Mr. Flynn, and thank you, Mr. Coran, Mr. Leckie and Mr. Bennett for your deputation on behalf of the Ontario Secondary School Teachers' Federation.

ATKINSON CENTRE FOR SOCIETY AND CHILD DEVELOPMENT

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, Ms. Janmohamed and Professor Corter of the Atkinson Centre for Society and Child Development at OISE. Welcome, and please begin.

Ms. Zeenat Janmohamed: Thank you very much. I'm dying for a very cold drink. You must be really hot as well, and a bit tired, but thank you for having us here this afternoon. Congratulations to the government for thinking about a system reform that's unparalleled in the North American jurisdiction, and thank you to Mr. Marchese for all of your advocacy work as well.

We're sort of at a time when we are trying to move from fragmentational services into a more comprehensive approach, and there are going to be lots of bumps along the road. I'm really glad that my colleagues this afternoon have raised their concerns. My task today is to share with you some of the lessons we have learned from Toronto First Duty.

Toronto First Duty is a children's service delivery model that combines education, child care, family support and health services. For almost a decade, now, Toronto First Duty sites have served as a laboratory for people to come and actually touch, feel and see how an integrated model works. The research is conducted out of the Atkinson Centre at OISE/University of Toronto, and I am one of many people involved. My colleague Carl Corter, who is the principal investigator, couldn't come this afternoon, and so my apologies on his behalf.

TFD helped to inspire the appointment of Dr. Pascal as the minister's adviser on the best way to implement early learning in Ontario, and out of that, you're very familiar with the report that came out: *With Our Best Future in Mind*.

We see the full-day early learning program as a bridgehead to try to create system-wide change for children between zero and 12, and we encourage policy-makers and the implementation teams to carefully consider the lessons we have learned and also to apply them

to these important education reforms you're making. We would welcome any of the committee members for a tour at Bruce/WoodGreen so you can actually see the model that is largely in place now. I want to share with you some key lessons, and I'd be happy to take questions after, if you have any.

In the Toronto First Duty model that is exemplified right now at Bruce/WoodGreen Early Learning Centre in a Toronto District School Board school, we bring together a partnership between a community service, the school board, the public health department and others to essentially create a team of educators that brings teachers, early childhood educators, teaching assistants, recreation and health professionals together to plan a more integrated model of early learning into a single pedagogical approach.

The educator team essentially reflects a whole-school approach, facilitating ongoing communication, planning and goal setting between professionals. One of the key findings we have discovered in this past year, in particular, is the absolutely critical and important nature of having the time together to meet and plan a curriculum as a team.

The other thing that has happened is that the early childhood educators, as a result of the partnership working with the teachers, can also spend some time in the upper grades, therefore facilitating some continuing support into the extended year and the summer programming. That extended day type of learning has been absolutely central to the cohesion that the children experience, and that the parents experience as well.

The Toronto First Duty research has shown us that with strong leadership from the principal as well as the early years coordinator, joint professional development and time for programming planning, the team is strengthened through a common pedagogy and curriculum approach in creating a learning environment that creates stronger links between parents and schools.

If Ontario's educational reforms are to fulfill their promise, then the working conditions of the educators must be conducive to each member of the educator team applying his or her knowledge to create a learning environment. This is absolutely essential in the Ontario context, where the majority of teachers do not have formal child development training, something that early childhood educators can bring to the program.

Having said that, the wage differentials between certified teachers and registered early childhood educators are expected because of differences in training; however, the significant salary differential that is being offered right now is absolutely incompatible with a learning environment where teachers and early childhood educators work side by side to deliver the program. School boards need to be resourced and directed to provide working conditions conducive to recruiting, retaining and building a strong educator team. Therefore, we recommend that the committee consider wages for early childhood educators that comply with pay equity requirements, and that an exclusive professional and employment classification for

early childhood educators working in the early learning and extended day and summer program also be considered.

The second lesson has to do with how an integrated approach to children's services encourages programming to meet the developmental needs of children. We've had the opportunity to see an absolutely terrific program in place that brings teacher education and early childhood education skills together, and it's an opportunity to think about how we can push back against developmentally inappropriate programming and move forward a more progressive vision of what learning ought to be, that makes children excited and makes parents more involved in their kids' programming.

1620

The seamless program that we have modelled at Toronto First Duty, and which will be implemented in all of the early learning programs in Ontario over the next four or five years, will blend childhood development, but at the core of expectations, it will deliberately and effectively support cognitive development and tap into children's individual interests, drawing out their capacities.

We therefore recommend that the committee also think about capping class sizes in the early learning program to 26 children during all hours of operation and also placing a time limit on exemptions for boards that are hiring staff without appropriate ECE qualifications. We are not in a position yet in Ontario where we have such a shortage of early childhood educators that we can't fill those positions; we believe that we can.

It's also important to direct the school boards to schedule adequate time for joint planning by the educators team. This is absolutely critical, and we've demonstrated in the Toronto First Duty program that it's central to effective programming.

The third lesson we've learned is that integrated early childhood service delivery reduces the daily stress and hassles that parents experience in family life. The reality is that 77% of Ontario's families with young children are in the workforce. This is simply the reality of the way that we live in Ontario. The level of stress that parents experience is significantly lower in an integrated model. The satisfaction that parents experience in terms of communication and support and the fewer transitions makes a big difference in the children's lives as well.

To that extent, we believe that year-round programming has been shown to be effective at reducing the achievement gap between children living in advantaged and disadvantaged circumstances. As summer learning losses accumulate over the years, disadvantaged students fall further and further behind. The issue we have at hand is that the government is offering the program for only 188 days of the year, and we've heard from the parents earlier today about the stress that's going to cause for them. Child care programs are not in a position to reserve space, nor are staff willing to cover off summer holidays. This is a huge gap in the way that the legislation has been designed at this point. We would strongly urge that the

legislation reflect the need for year-round programming to ensure optimal opportunities for all children and to support their families.

The fourth lesson is that integrated early learning delivery facilitates parent participation in their child's early learning. The Ministry of Education and the Premier of Ontario are very keen to have more parents participate in their children's learning, and we believe that the integrated model helps to do that.

In the research that we conducted, we found that the parents in the Toronto First Duty sites were more involved with their child's learning, felt better able to offer support and felt more empowered and responsible for speaking with program staff. For example, when parents of many children enrolled in the kindergarten-type program were asked, "When would you like to come in for your parent interview?" most of them said, "Actually, we feel like we talk to the teachers and the early childhood educators every day. We don't need to come in for a parent-teacher interview." That gives you a sense of their involvement and their commitment.

The Pascal report emphasizes parent involvement as a primary focus and advantage of the proposed educational reforms. Creating schools as neighbourhood centres for families from birth onward is a proven outreach strategy to both advantaged and disadvantaged families. We did not select Toronto First Duty sites only in disadvantaged communities; we wanted to exemplify how a model like this could work in all kinds of communities and that year-round programming attracts stable enrolment allowing cost efficiencies for both boards and parents. Therefore, we recommend that policy and legislation support the development of the child and family centres to accompany the rollout of the early learning program.

You have heard all afternoon about the impending crisis that's going to occur for child care programs and service providers. The Pascal report had two parts. It had the early learning program and the child and family centre—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Janmohamed. I'll need to intervene there and thank you on behalf of the committee for your deputation and written submission on behalf of the Atkinson Centre for Society and Children Development at OISE.

CHILD DEVELOPMENT INSTITUTE

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward, Mr. Tony Diniz of the Child Development Institute and colleague. I would invite you to be seated and please begin.

Ms. Nada Martel: Good afternoon, and thank you for this opportunity to present to the committee. My name is Nada Martel, and I'm here with Tony Diniz. We are both here this afternoon to represent the Child Development Institute, a not-for-profit organization fundamentally concerned with child development through the provision of early learning and care services; children's mental health and family violence services; and research and knowledge development.

The Child Development Institute operates eight early learning centres or child care centres in Toronto, and last year we celebrated 100 years of service to Toronto's children.

The Child Development Institute is part of the Quality Early Learning Network, which presented earlier this afternoon, and we completely support the brief and proposed amendments to the bill that have been developed by the Quality Early Learning Network, together with the YMCAs of Ontario and the Boys and Girls Clubs of Ontario.

I want to say from the outset that we clearly support, in principle, full-day early learning for four- and five-year-old children. Having said this, we have some serious concerns, however, that we would like to emphasize.

Mr. Tony Diniz: Good afternoon. Bill 242 sets out for boards of education to be the sole provider for the extended day. We support the concept that there be the option—and I stress “the option”—for boards to collaborate with the not-for-profit sector to provide this service. We agree that a seamless experience is essential for children, but we believe that this can be accomplished through strong collaboration.

In our early learning services, we have three child care programs that are in schools, that are highly collaborative in nature and also link these students and their families to other community services that some families require. That collaboration works.

In our children's mental health and family violence services, we have on-site programs in over 25 TDSB and Toronto Catholic school boards, and the collaboration model works.

Does that mean that schools are to take over all other services, including children's mental health, and really move away entirely from a collaborative model? Rather than start from new, why not create an option to collaborate with existing proven services?

Like other providers, we are deeply concerned that an unintended consequence of full-day kindergarten is the serious financial destabilization of child care. Moving four- and five-year-old children to education and out of child care shakes the fundamental economics of a child care centre. This group of children softens the finances for the younger children, infant and toddler groups.

I can tell you that we have closely examined our own financial models, and when the four- and five-year-old children are in full-day early learning, we end up with a financial shortfall of between 10% and 25% for the centre. In many cases, adding more young children just makes this worse. The only outcome can be a price increase of 10% to 25%, or the closure of that centre and the loss of service to children and families.

As a not-for-profit organization, we are concerned about striking the balance, with competitive salaries for our important staff, but also with affordable fees for fee-paying families. Child care rates are already at a saturation level for families, and a possible fee increase of 10% to 25% will be, in our view, clearly over the top.

Now we have an additional major threat: the potential loss of 5,000 subsidies, which is 21% of the current system in Toronto. This poses major problems for organizations like ours who operate programs in disadvantaged communities and who are dependent on the availability of subsidy to serve children and families.

These two threats alone are very worrisome. Together, they truly constitute a perfect storm. We have a 21% reduction threat, because of the subsidy crunch, on top of a model, which is coming, which faces a 10% to 25% sustainability problem.

The child care system has been fragile but somehow resilient, but we can only ride out so many waves before the ship topples over. Two of our centres are closing this year because they're in schools named for full-day kindergarten in September. We now regard that all of our centres, with our understanding of this legislation and its possible actions and inactions, are at risk, including those providing vital services in Regent Park, St. James Town, and Parkdale.

Ms. Nada Martel: We feel that full-day early learning will be great if we proceed and address all of the issues in this initiative that have been identified. We just urge you to take a wider view and understand how this threatens the very delicate ecosystem of child care.

As a board member, I'm very proud of the work that we do, that our dedicated and skilled staff work every day to start children off on the right track at a key developmental time in their lives where this matters very much. Our staff support families and enable them to hold employment, to work or to attend school to improve their ability to participate in the work force and provide a stronger future for their children. This is right in line with the child development agenda, with the anti-poverty agenda and with building strong community roots.

1630

As a citizen board member of an agency concerned with child development, I urge this committee to adopt social policy that builds on community assets and promotes child development for all children, not just for some children and families at the cost of other children and families.

Thank you so much for this opportunity to express our views.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Martel and Mr. Diniz. We have about two minutes or so per side. To the government, Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for the presentation. I love the sentence, “The child care system has been fragile, but somehow resilient.” I support that. I think many people in the room don't have to go back too far to when it was still quite fashionable to call it government-funded babysitting. You don't have to go back too many years to find that as part of the lexicon.

The intent is to do the best thing for children, for four- and five-year-olds, but also to recognize the reality of the process that's evolved over the years. Are you saying that if we went to the system that you're proposing, that's the end of the road and that's the system we move to and

adopt? Or do we use the system that's evolved to, slowly and in a phased way, move our four- and five-year-olds into the education system?

Mr. Tony Diniz: It is complex, Mr. Flynn. I'm sure you understand that. The first issue is that there has to be some counterbalance to the economics of child care. If we are to have child care for the Best Start centres, the way they're funded right now, it simply doesn't work with this model. It really does present this 10% to 25% problem on top of other problems. If there's some way of addressing some of that shortfall for the early child care centres, Best Start centres—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Jones.

Ms. Sylvia Jones: I am wondering if you have done any modelling on if you were to continue with the collaborative model, where the Child Development Institute had the before and after and the summer programs—whether that model works from a business case.

Mr. Tony Diniz: In our situation—that may work for many other child care centres; it doesn't help us so much because of the neighbourhoods we're in and because we really don't provide services for kids six to 12 anyway. So we have other issues. But there are parts of the not-for-profit sector that that will help substantially.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Marchese.

Mr. Rosario Marchese: Sorry, I had to skip out while you did your presentation. There's only one of us on this side, so it's hard.

I missed the essential point, but I wanted to ask you to comment on the issue of class size, because I really believe, like the previous speaker, that there's got to be a cap. I already believe that 26 is a huge number when you consider that kids need a place to sleep, that there's got to be snack preparation and problems going to the washroom and other related problems. Do you think there should be a cap?

Mr. Tony Diniz: We really believe that the provisions of the Day Nurseries Act provide for essential safety and quality. There are caps: There are not guidelines; there are caps in that legislation. So by the same thinking, in my view, there should be the same caps in education as well for young children, given their vulnerabilities.

Mr. Rosario Marchese: Okay. You agree with that, I'm assuming. Thank you so much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese, and thanks to you, Ms. Martel and Mr. Diniz, for your deputation on behalf of the Child Development Institute.

CAMPAIGN 2000/FAMILY SERVICE TORONTO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Rothman of Campaign 2000/Family Service Toronto. Welcome. I invite you to

please be seated. We'll have that distributed. Please begin.

Ms. Laurel Rothman: I'm Laurel Rothman. I work at Family Service Toronto, a city-wide agency that serves thousands of families every year and is the host for Campaign 2000, a cross-Canada, non-partisan coalition with 67 partners in Ontario committed to ending child and family poverty in our province.

We appreciate a number of the steps that the Ontario government has taken over the past year to respond to some of our recommendations, including the poverty reduction strategy, with a target to cut child and family poverty by 25% by 2013, and the commitment to phase in full-day learning for four- and five-year-olds.

I should note that we, Campaign 2000, have been calling for almost two decades for a national system of universal early learning and child care services. Certainly, provinces have a leading role to play in both providing and funding these services. Our research has confirmed—as much other research has—that access to affordable, quality child care is a key pathway out of poverty for low-income families.

Regarding the bill: We support the bill in principle, as it implements the full-day learning program. It sets out important legislative changes to ensure that a universal program for four- and five-year-olds will be eventually available to children in every community across the province.

The amendments to the Education Act require that school boards operate an extended day program. However, from our perspective, the extended day program not operating all year round—or not mandated to, at this point—is a serious deficiency. It leaves our families, and we heard earlier that 77%—now I'm trying to remember. I think it's 77% of women with children under six are in the labour force in Ontario; I think that was the earlier statistic. So it leaves families without services during school holidays and in the summer and puts more pressure on a fragile network of child care services.

We'd like to see two amendments to subsection (4): The first, to ensure that the extended day programming for four- and five-year-olds runs all year, as the early learning adviser recommended to the Premier and, as we know, as the best systems internationally do operate. We'd also like to see an amendment that mandates that school boards provide a nutritious lunch—and I use the word “nutritious” recognizing that it may not always be able to be a hot lunch—and snacks to children in the early learning program, as is currently the requirement in licensed and regulated child care.

Let me go on to say that our current concerns regarding the funding for, if you will, the complementary network of services for children under four that is operated by licensed child care providers are serious. While we support the intent of the bill, we have strong concerns about insufficient funding to maintain the current, very fragile network of services and to ease that transition. Just imagine that if you were running a centre for 52 kids and you lost 40% of them because they went

off to kindergarten and all-day learning. In theory, that's great. What needs to happen and has not happened is that there be a clear plan, both design-wise and financially, to assist those programs to make that transition, whatever it may be; whether it becomes a smaller program or a different age mix, whatever. So that's one serious concern that we have.

We're particularly concerned about the expected loss of up to 7,600 child care subsidies if the March Ontario budget does not include at least \$64 million for subsidies and child care services. I know that there are many other needs, but influx of cash is essential for low- and modest-income families, who would be hurt the most if we lost subsidies. And do you know what? They're the very same families that the Ontario poverty reduction strategy is seeking to lift out of poverty. Access to affordable, quality child care is key to the Ontario government achieving its target of reducing child and family poverty by 25% by 2013.

I guess the other way to look at it is: You can't build a new second storey on a house—and let's think of the early learning program as indeed, a bright, shiny and comfortable, let's hope, beginning for full-day learning for four- and five-year-olds—on top of what we would say is a crumbling first floor of services for very young children. Two of your government's main social policy planks, the early learning program and the Ontario poverty reduction strategy, will falter seriously if child care is allowed to collapse.

So we're urging the Ontario government to ensure that the next budget includes additional transitional funding to ensure that the new full-day early learning program operates as the early learning adviser recommended and as intended, and to include at least \$64 million to maintain the child care subsidies for low- and moderate-income families.

Thank you.

1640

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Rothman. You have left a generous amount of time, about a minute and a half or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I had one question on your, "We would like to see an amendment to subsection (4) to ensure that extended day programming for four- and five-year-olds runs all year round." Why only four- and five-year-olds? The extended program would be up to 12.

Ms. Laurel Rothman: Oh, that's true. We would certainly support that. I think we're looking at basically the current phase that has been announced and committed to. Let's do what has been agreed upon well, for starters. In other words, we're just commenting on the specifics at this point. We do support, of course, the wide range of services up through 12, but right now let's do what we need to do for families with four- and five-year-olds so that they can stay in education training and the labour force throughout the year without disruption, dislocation and/or unaffordable services.

Mr. Rosario Marchese: Thank you, Laura, for reminding us about the fragility of child care services in

general—because that's what it is—and about the potential loss of the \$63 million and what that will do to child care and the loss of spaces.

There is talk of increasing the ratio, which worries a lot of people, and there is the loss of four- and five-year-olds from current programs into the child care system. People are saying, "You're providing a good service and you're going to kill another good service somewhere else." So it's a good reminder about the fragility, and Pascal talked about this. I think if the government implemented all the recommendations, we'd have fewer concerns. That's why people are here.

You raise many concerns, including that whole point of running all year round. I'm not sure where this is going to go, so I'm glad you're here. I'm glad you're lobbying all of us and I hope you continue lobbying the minister and the Premier on this matter.

Ms. Laurel Rothman: I just have to add that we in poverty reduction over that year and a half pushed hard and everybody said, "Just wait for the early learning report." It's here. So you've got to do it right.

Mr. Kevin Daniel Flynn: Based on doing it right, I've got a very brief question and then I'm going to turn it over to Mr. McMeekin. There can be a snowball or a domino effect from this. People who are providing daycare right now to four- and five-year-olds are saying, "If you put these children in full-day learning, it's going to impact my operation. It's going to upset it. I'm going to have to change things. It may not even be viable."

If it went to full-day, full-year, what would that do to the summer programs that exist right now—the YMCA, for example, the town programs—where traditionally children have been spending their summers?

Ms. Laurel Rothman: I think those are good questions, but if we want to look at a fully integrated system, as the early learning adviser recommended, and we see schools as community hubs—remember, they may, in some large communities, not be the only service; in small communities, they probably could be the only service.

I have to be honest and say that I haven't looked at the exact details of the impact of the summer program. I'm thinking of children and families and what it means for them to continue their lives.

Mr. Ted McMeekin: It takes a village to raise a child. We've heard a lot about partnership today. Provincial governments like partners too. There was a time when we were able to partner with other levels of government.

Campaign 2000's goal for the last two decades has been the creation of a national system. What kind of progress are you making in your advocacy with the federal government?

Ms. Laurel Rothman: Not much, I think we'd all have to say, unfortunately.

The Chair (Mr. Shafiq Qaadri): I apologize; I'll have to intervene there. I thank Ms. Rothman for her deputation and presence on behalf of Campaign 2000/Family Service Toronto.

CANADIAN UNION OF PUBLIC
EMPLOYEES, LOCAL 2484

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward, Ms. Teibo of CUPE Local 2484, the Canadian Union of Public Employees. Welcome. I'd invite you to please begin now.

Ms. Marsha Duncan: Hello. Thank you for allowing me to make a presentation today. My name is Marsha Duncan, and I'm taking the place of Janet Teibo. We represent CUPE Local 2484.

CUPE Local 2484 is a local of just over 300 child care workers here in Toronto. We provide services for approximately 3,000 children in 31 different child care centres. I am a registered early childhood educator and have resource teacher credentials as well. I have worked in the child care field for the last 10 years.

I am here today to let you know that we support the report, *With Our Best Future in Mind*, which was issued by Dr. Charles Pascal last June. Dr. Pascal spent almost two years consulting with teachers, parents and other stakeholders. The Pascal report sets out a vision for a comprehensive early learning childhood education system that included full-day learning programs with registered early childhood educators working as a team with certified teachers to provide a half-day, a regular day or extended day of high-quality early learning and care.

He identified that a key part of the plan must be that educators have child development knowledge and skills as well as effective skills in engaging parents' involvement.

The report validates the skills and capacity of early childhood educators. We are not child minders or babysitters. We plan programs to meet the needs of each individual child in a holistic manner geared to their social, physical, emotional and psychological needs. We must be considered equal partners and team members in the planning and implementing of the new curriculum. We are looking for the committee to ensure that these elements are included and recommended for Bill 242.

Any good legislation must have funding to ensure that it's successful. Dr. Pascal outlined an early childhood vision for all children from infants to 12-year-olds, and provided comprehensive plans of action. We must ensure that our system of early childhood learning and child care for all children is both sustained and strengthened.

Research has shown that children learn through play, but these programs must have higher staffing for supervision. The higher ratios in schools versus child care do not allow for a learning-through-play format.

Funding for full-day kindergarten and the extended day must be provided to ensure that the quality and ratios which are currently part of the Day Nurseries Act can be maintained. The DNA currently has ratios of 1 to 10 for four- and five-year-old kindergarten children. Under current education now planned, the traditional school model has one teacher and 20 children. While this may

have worked for half-day programs, it is not appropriate for full-day programs for four- and five-year-olds where the curriculum is planned in a holistic manner.

This means that your proposal for staffing for school and the extended day must be revised and an allowance made for smaller groups during the school day, and additional registered early childhood educators or EAs in any extended day program which has more than 12 children.

The Ministry of Education currently provides funding to school boards using a funding formula. Many school boards feel that the funding formula continues to have problems. We need to ensure that any new funding must include adequate amounts for current and grid increases in teacher salaries, both certified and registered early childhood education professionals; for professional development and training to ensure that the new curriculum is child-friendly and appropriate; adequate funding for accessing services for children with special needs; and the subsidies for parents who qualify for extended day assistance must come from new monies, not those monies currently allocated to the child care system.

This is an exciting time for education and children's services. This is your opportunity to make a real difference in the lives of Ontario families and children. It will only be a success if you follow Dr. Pascal's report. His report was not only a plan for full-day learning kindergarten, but a comprehensive early childhood learning education system.

In particular, we ask that as you make your changes to the Education Act, you ensure that the community-based child care services that currently serve four- and five-year-old children are supported to serve younger children and families, with affordable parent fees, decent wages for staff, and expanded services for children and families.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. Teibo. We have about two minutes or so for questions. Mr. Marchese.

Mr. Rosario Marchese: Sorry, is it Janet Teibo or—

Ms. Marsha Duncan: I am replacing Janet.

The Chair (Mr. Shafiq Qaadri): Oh, Ms. Duncan.

Mr. Rosario Marchese: And your name is, again?

Ms. Marsha Duncan: Marsha Duncan.

Mr. Rosario Marchese: Marsha; yes, okay. Thank you, Marsha. I happen to believe that early childhood educators are underpaid. I agree with Zeenat Janmohamed on the salary differential issue that she has raised. I'm not sure that we're ever going to solve that unless we really push governments to deal with that.

I wanted you to comment on the issue of the class size. At the moment, the average is 26; that's what they're talking about. I think it's going to be a real difficult issue, to teach those kids when you have such a high number of students in the classroom. Do you think 26 or 27 or 30 is a high number? Do you think the cap should be 26? Should it be lower? What do you think?

Ms. Marsha Duncan: I think the cap should really be lower, because we have children who will be entering the

system who also have special needs, and we have to look at their safety and keep their safety in mind also. So it should be a very low ratio.

1650

Mr. Rosario Marchese: What should that ratio be, in your experience?

Ms. Marsha Duncan: Like I just mentioned, the ratio should be at least 1 to 12.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. To Mr. Flynn.

Mr. Kevin Daniel Flynn: My understanding is that the ratio will be one adult to every 13 children. Maybe that's something we need to discuss further. But what I've been really impressed with is the way that the ECEs and the teaching profession have worked together on this, because the potential is here for everybody to stake out their own ground and the interests of the children get lost in all this.

Ms. Marsha Duncan: Yes.

Mr. Kevin Daniel Flynn: My understanding is that the full implementation of this program—there will be close to 4,000 new teachers in Ontario and what's particularly good news is 20,000 new early childhood educators. I think that's something that we should all be proud of, if we can work this out somehow.

What's your best advice as to how we can reach this? Obviously it's a phased approach. We're facing year one in September. What do we do? What's the most important thing to do?

Ms. Marsha Duncan: The most important thing to do is to get advice from early childhood educators how we can work together with teachers in the classroom, because we know when children just enter kindergarten, they are scared and we have the skill to help these children merge and feel more relaxed in a comfortable environment. So I think it will be a good idea to speak to other childhood educators and get their feel of how we can actually work in partnership and define our job also in Bill 242.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. To Ms. Witmer.

Mrs. Elizabeth Witmer: No questions.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Duncan, for your deputation on behalf of CUPE Local 2484.

SCHOOLHOUSE PLAYCARE CENTRES OF DURHAM

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward, Ms. Gilbert and Ms. Monaghan of the Schoolhouse Playcare Centres of Durham. Welcome and please begin.

Ms. Denise Gilbert: Good afternoon. My name is Denise Gilbert, and I am here today with my colleague Karen Monaghan. I am the executive director of Schoolhouse Playcare Centres, and Karen Monaghan is a parent and a director on our board of directors.

We'd like to thank you for this opportunity to present our feedback on Bill 242, Full Day Early Learning Statute Law Amendment Act, 2010.

Schoolhouse Playcare Centres is a non-profit child care organization, and we currently operate 22 child care centres, which are all located in schools within the Durham District School Board.

I am proud to say that we have been serving the Durham community and working in partnership with the school board for the past 25 years. We serve approximately 1,200 children from infancy through to 12 years of age, and we employ approximately 150 staff, 40% of whom have been with us for more than 10 years.

Over the past 25 years, we have demonstrated a commitment to children and families in meeting a wide range of child care needs, and this has allowed us to be true to our vision: We will be a building block to strong, diverse communities.

Ms. Karen Monaghan: Good afternoon. First, we want to preface our statements by saying that Schoolhouse Playcare Centres supports the government's vision of full-day learning for four- and five-year-olds and extended day as well. However, we have some serious concerns about the implementation of this plan and the implications it will have on our children and our families.

Our three main concerns are as follows:

(1) Bill 242 clearly identifies that not only will school boards be prohibited from entering into a partnership with local not-for-profit community providers in the delivery of before- and after-school programs for four- and five-year-olds, but it sets the stage for enabling school boards to deliver before- and after-school programs for any school-aged children.

(2) There will be a direct financial impact on child care centres by transferring full-day learning and extended daycare for four- and five-year-olds to the education sector, which will only be compounded by the termination of federal monies used to fund Best Start initiatives.

(3) Bill 242 is far-reaching in scope and goes beyond granting legislative authority for full-day learning for four- and five-year-olds, and this will result in significant consequences.

Ms. Denise Gilbert: I'm now going to follow up with some further explanation of those concerns.

In terms of Bill 242 and the exclusion of community partners, Bill 242 categorically states that school boards must directly operate before- and after-school programs for four- and five-year-olds, therefore eliminating any existing partnerships that have already been established. The rationale for this is that it will reduce transition for children, and it will ensure consistency of programming and curriculum.

However, integrated services are not based on space and unilateral operations alone. They are based on relationships and communication and on people working together for a common goal. The goals of reducing transition and ensuring consistency can be achieved through positive and effective partnerships with community

providers, many of whom are already operating programs on school property. In fact, this is the fundamental structure in which Schoolhouse Playcare Centres operates. We are already located in the schools; there is an existing relationship and set of policies in place; and ongoing efforts have been made to support this integrated model.

For example, Schoolhouse Playcare Centres currently ensures that there is consent to disclosure in place for all of our children who are also attending the school. This ensures that we have the capacity to share information that will support individual children's needs.

Also, in conjunction with the child care liaison of the Durham District School Board, Schoolhouse Playcare Centres has also ensured that there is a system in place in which families of both new and existing schools are surveyed to determine child care needs if that is deemed something that needs to be done.

Bill 242 also goes further to say that school boards will be permitted to operate before- and after-school programs for all school-aged children. What is unclear about this is why it is even necessary when there are existing community services into which significant investment has already been made, who are currently providing that service and who are doing it well.

For example, Schoolhouse Playcare currently provides before- and after-school care to approximately 700 school-aged children in 19 schools. The impact of excluding community partners in the delivery of services to children and families is significant: It will ultimately eliminate choices for parents; it will likely cost more and, therefore, reduce the amount of subsidized space available in the system; it will place unnecessary expectations on boards of education to deliver services of which they have no knowledge or experience; and it will reduce quality, since these programs will not have to meet any regulatory requirements.

In terms of financial impact, the funding currently received by the child care sector is inconsistent, and as a direct result of reduced funding in previous years and lack of increased funding to match the expansion of child care, it is not adequate to meet the current operations of most child care centres. That is, most child care centres are already supplementing funding, and this revenue can only come from parent fees.

For example, Schoolhouse Playcare Centres has expanded over the past 25 years. However, wage subsidies have not increased consistently or relative to that growth. In order to maintain pay equity and not decrease our salaries to our staff, Schoolhouse Playcare has had to supplement the wage subsidies received through government grants. In 2009, the wage subsidies were supplemented by approximately \$264,000 or 33% of the total grants that we received. With no new federal funding expected, it is also anticipated that we will incur an additional shortfall of \$95,000, bringing the total shortfall to \$359,000.

If you combine the current funding challenges, the pending loss of federal funding and the implementation of Bill 242, the financial impact will be devastating.

Without significantly more stabilization dollars, child care centres will close, parent fees will sustain substantial increases, and there will be an overall loss of spaces.

In terms of the zero to 3.8 age group, this group is the most expensive to deliver to and is supported financially by other age groups. In our organization, we operate two centres that accommodate infants, toddlers and preschoolers. Because of the high cost to operate infant/toddler centres, in 2009 the combined deficit for these two programs was \$208,000. These losses were supported by our other programs which operate school-age care.

In order to have these centres be self-sustaining—that is, not financially supported by other centres with other age groups—the parent fees would need to increase by approximately 17% to 48%, depending on the size and demographics of the centre. This would mean an increase in infant fees from \$970 per month to as much as \$1,435 per month.

Additionally, if all of the four- and five-year-olds were removed from our programs, this would represent a loss of revenue of \$800,000 or 15% of our total revenue collected from parent fees. This would mean an increase of 19% to 20% for our preschool fees, and that equates to an additional \$163 per month more than the fee that is already at \$809. If you do the math, that means that if a parent has a preschooler and an infant, you're looking at over \$2,000 a month.

1700

The six- to 12-year-olds represent another 50% of our total revenue, meaning that 65% of our organization is made up of school-age children, and it's that 65% which keeps us viable and which allows us to support infants, toddlers and preschoolers. The remaining 35% of children from zero to 3.8 could not be financially self-sustaining without that school-age component.

Without stabilization funding, the parent fees required to make this group self-sustainable would have to suffer significant increases, which would result in parents' inability to access quality care and fewer subsidized spaces as a result of the higher costs per space.

To presume that all child care centres could convert space to accommodate children from zero to 3.8 years would be unrealistic based on demographics in many areas—for example, in Durham we are suffering a declining birth rate in many areas—which would therefore result in closures of some child care centres and potential losses of child care spaces. For us, at Schoolhouse Playcare, we increased our school-age enrolment by 4% in 2009 and we've decreased the preschool enrolment by 9%, so it's not going to be an option for us to convert to infant-toddler in many of our locations.

With respect to the scope of Bill 242, it goes much further than granting legislative authority for full-day learning for four- and five-year-olds. It grants a great deal of power to the ministry to issue guidelines and policies on the operations of extended-day programs for all school-age children, not just four- and five-year-olds, which therefore exempts them from having to meet the same requirement as licensed child care programs, and

that would be our Day Nurseries Act. This creates an inequitable system in which there are two separate standards—

The Chair (Mr. Shafiq Qaadri): With respect, Ms. Gilbert and Ms. Monaghan, I'll need to intervene there. Thank you, on behalf of the committee, for your deputation and written submission on behalf of Schoolhouse Playcare Centres of Durham.

ASSOCIATION OF DAY CARE OPERATORS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, from the Association of Day Care Operators of Ontario: Ms. Yeaman and Mr. Humphreys. Welcome, and I invite you to please begin now.

Ms. Kim Yeaman: Good afternoon. My name is Kim Yeaman and I'm the co-president of the Association of Day Care Operators of Ontario, or ADCO. I'm also a direct operator of a child care centre in Simcoe county. With me today is our past president, Greg Humphreys, who, like myself, is the operator of two small child care centres in Peel region.

I'd like to start by telling you a bit about ADCO. ADCO is the largest single organization representing small child care operators in the province. Our mission is to bring the owners and managers of Ontario's independent, licensed child care programs together to enhance child care quality and achieve common goals. Our membership includes licensed centre-based programs, home child care agencies, nursery schools, preschools and before- and after-school programs. ADCO member centres include both privately owned community-based centres and not-for-profit community agencies, with roughly 60% being the former and 40% the latter. Over 70% of our members are single-site operators, and in most cases the owner is an ECE who actually works in the centre every day.

First and foremost, ADCO members are educators, so they strongly support the concept of an early learning program and are committed to doing whatever is best for families and children. They are very much in favour of the objective of the McGuinty government's early learning program. Our concerns, however, rest in the unintended impacts of implementation in the child care sector.

Indeed, as it stands now, the phase-in of the early learning program and the corresponding exodus of the four- and five-year-olds from our centres, coupled with the potential cessation of federal child care dollars, have created a situation which will force our members to, at minimum, increase their fees or, in a worst-case scenario, close their doors. We are confident that no member of this House and certainly no member of this committee wishes to see regulated child care become unaffordable or unavailable. That is why we are here today. We would like to discuss some initiatives that we feel would go a long way towards stabilizing child care as we transition

to full-day school-based programming for four- and five-year-olds.

The most obvious and pressing need with this transition is fiscal support to realign our centres with a younger demographic. Many centres, particularly now, have great difficulty in accessing banking capital. With the uncertainty in child care, even those who can access banking loans will find the interest rates exceptionally high due to the risk. This is why we need Ontario to provide dollars to allow centres to be redesigned and retrofitted to accommodate younger children. This will create infrastructure jobs and help keep centres open.

The second issue facing licensed child care centres revolves around staffing and operations. It is predictable that with the phase-in of the early learning program, it will be much harder to secure and retain quality ECEs. The reason for this is simple: We as small operators cannot match the wage and benefit package school boards are offering. As an ECE myself, I understand and respect the work our profession does. I would love to be able to pay my staff what is being proposed by the Ministry of Education, but there is no way I can do this without significantly raising fees for parents. I hope the government will come to the table in the form of wage subsidies to allow for a degree of equity between providers and the school system.

The third issue that we see as necessary is the most challenging. With the removal of four- and five-year-olds from our centres, we need to realign the Day Nurseries Act to reflect the new age ranges we serve. This must be done with dual focus. Quality must be maintained, but we also must ensure that centres are able to provide affordable and accessible services for families.

The reason these stabilization measures are necessary is that under our current system, four- and five-year-olds cross-subsidize the cost of care for younger children. In essence, the larger ratios allowed for this age bracket ensures that care for our youngest kids is more affordable. Without this cross-subsidization, licensed child care programs will be forced to charge for the real cost of care for the youngest children, which will bring fee increases for parents of up to 25%. This will result in more parents choosing unregulated, street corner care as regulated child care becomes either unaffordable or unavailable for children under 3.8 years of age.

We believe these measures, particularly the fiscal recommendations we have presented, must be applied evenly, regardless of auspice, as the challenge, as we've seen today, affects all operators equally. Further, any plan that would support not-for-profit operators only would wind up excluding the vast majority of operators in rural and already underserved areas. In these areas, small private sector centres usually are the only licensed facilities available.

We are hopeful that, should members of this committee and this House support some of the initiatives we have proposed today, we can ensure that child care remains affordable and accessible to parents in all Ontario communities.

In closing, I'd like to thank all members of the committee and the House for the opportunity of meeting with you today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Yeaman. About a minute and half per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I'm familiar with my area, but as a general rule with ADCO, how many of your providers would have operations either adjacent to or within a school?

Ms. Kim Yeaman: It really depends on each member. Some members have a lot of sites; some have one site. Most of our members have a single site, and a lot of those members would be—the private members are the ones that are single sites off-site from schools.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: Clearly, in the early part of the introduction of this bill, the government was happy to say that removing the four- and five-year-olds would free up spaces in the early child care centres. They were quite proud of that. They just didn't realize the unintended consequences. Clearly, you and the previous presenter show statistically how this affects you and affects all of you.

They don't realize that most of them can't run with the programs from ages zero to three because they're expensive, and you're going to have to increase fees. If that is true, a whole lot of people who can't afford it now are not going to be able to afford it when the increase comes.

It's a good reminder. Thank you for coming. It's a continual reminder to the government, because they need to deal with this.

The Chair (Mr. Shafiq Qaadri): Mr. Flynn.

Mr. Kevin Daniel Flynn: I think today we've heard from 18 people so far. For some reason—fate I guess—the first person was the only person who said, "Full-day learning for four- and five-year-olds isn't a good idea to move ahead with." It seems that there's a majority view of people saying that for the four- and five-year-old kids in this province, this is the best thing we can possibly do.

Ms. Kim Yeaman: Any early learning program for the majority of our children in this province is good for children.

Mr. Kevin Daniel Flynn: So we're left with the reality of deciding what's more important: the kids or the process. Certainly, you can't ignore the process, but you want to put the emphasis on the kids.

But what suggestions—obviously, you've offered some, but what's the most important thing we could do to maintain what we want to do for the four- and five-year-olds and maintain the viability of the child care system?

Mr. Rosario Marchese: Stabilization funds.

Ms. Kim Yeaman: Stabilization funds.

Mr. Kevin Daniel Flynn: So it comes down to money?

Ms. Kim Yeaman: I think it does.

Mr. Kevin Daniel Flynn: Okay. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn, and thanks to you, Ms. Yeaman and Mr. Humphreys,

for your deputation on behalf of the Association of Day Care Operators of Ontario.

1710

MR. PETR VARMUZA

The Chair (Mr. Shafiq Qaadri): I would now invite Mr. Varmuza, who I believe comes to us in his capacity as a private citizen. I would invite you, Mr. Varmuza, to please begin.

Mr. Petr Varmuza: Thank you very much. Until my recent retirement, I should tell you that I was the director of operational effectiveness for Toronto Children's Services, in which capacity I was responsible for planning, policy and managing a budget of about \$370 million, all of that dealing with child care and children.

However, I'm not here on behalf of the city of Toronto; I gather you're getting a written deputation from the city of Toronto. Why I'm really here is because I spent most of my working life, both as a parent and as an employee, working with children and trying to make sure that we have a better system for children in this province. I have seen many attempts at reforms come and go, and by far, this one has the most potential for actually happening. I am here to make sure that you don't let go and that you proceed forward.

In evaluating any of these proposals and looking at Bill 242, I'd like to sort of give you three "ares." My "ares" are: Are you doing the right thing; are you doing it right; and are you doing it with the right resources?

It's really hard to say whether you're doing the right thing, because in fact there is no government statement of the vision for the early learning system. Since Dr. Pascal presented his recommendations last June, outside of one letter that the Premier wrote—about 130 signatories to a letter back in September or October—there has been no statement saying, "Yes, we accept your vision. Your vision is our vision," or "We don't accept this vision." In fact, what you've got here is a bill that deals essentially with full-day kindergarten and then suddenly it becomes an early learning program of this government. I'm not sure that this is the right thing. On the other hand, it is a reasonable first step if you're moving ahead.

Of special importance is the integrated learning environment—the fact that you're bringing in ECEs and teachers together for the better learning and education of children. I would remind you that right now, in fact, only about 25% of kindergarten teachers have any kind of background or training in child development. The bringing of ECEs into the classroom can only be a good thing.

In response to the questions on the ratios, the fact is that now you're going to have ratios of 1 to 13 instead of 1 to 20, and at least one of those people will know what they're doing when it comes to child development. In the darkest moments, though, I tend to think that bringing the ECEs into the classroom was done purely for cost-saving reasons.

Now, moving to the "Are you doing it right?" I think this is where the biggest problem lies. There is huge confusion in the child care community and the education

community: Where is this whole thing going? Parents are afraid of actually committing to the early learning programs because they might need their child care for the summer, PD days and March break and it might not be there. There are visions of a large-scale collapse of the child care system—you've heard all those presentations before—and part of it is because there is a lack of certainty, there is no vision and there is no plan. There is a tremendously slow pace of communication and change. The minister didn't meet with the principals until mid-January. What have they been doing for the last two years? What have they been doing since Dr. Pascal published his report? There's movement, but the communication and the pace of change is really too slow to make it work.

Six years of implementation is way too long. I mean, something that should be transition and transformation, painful as it may be, but which is ultimately better for children, parents, communities and staff—maybe not the operators—is better for everybody. Six years is really six years of pain and suffering as opposed to a quick change that'll make a difference. As somebody said, you're trying to build on a patchwork. Why are you trying to build on a patchwork of services that are done, really, on the backs of underpaid ECEs when it can be done better?

Also, there is a huge problem in the bill—and I do have a few good things to say about it, but there is a devil in the details, and we've seen it time and time again. When the previous government, under the Conservatives, tried to, I would say “kill,” but I'm not going to say that word, child care, it was done through regulation; it was done through guidelines, through policy. You have to watch this. It's not just what's in the act; you have to watch the details.

Are you doing it with the right resources? Well, you have a really inflexible funding regime. I know child care funding to the city of Toronto comes in 19 different parts, and there is no way that you can combine it. Every time you want to do something progressive, you have to beg the ministry and the answer is “No.” You have a system that's falling apart. Frankly, we have all been blaming the federal government, but the fact is that since 2006, when the social transfer tax, social transfers came to Ontario—there was a 3% annual increase in those transfers, and not a penny of it found its way into the child care system. When you hear about the city of Toronto having to cut 5,000 spaces by the end of next year, that is a \$50-million shortfall. Only \$16.4 million is, in fact, a direct result of the cuts to Best Start. The province needs to take some blame for not properly funding the base operations of the centres.

Frankly, part of the problem with the resources is that we see a real lack of commitment, a lack of expertise, a lack of sense of urgency and a lack of vision on behalf of the provincial bureaucrats. We have done the math in this area and we found that in fact, it can be done; the whole Pascal report can be done. It can be done right and it can, in fact, be done within existing funding if you do the whole thing and you do it quickly enough.

I would give you these following recommendations. I think you must demand from your leaders a clear vision of early learning. You either accept Pascal or you don't. But you need to have real legislation that transforms and changes—not just implements full day, and that legislation needs to talk about integrating early learning and care for children from zero to 12 at least.

You have to define what are equitable outcomes for children. You have to give the mandate to communities for planning and delivery of services. You must stop confusing the role of schools in the community—which is really important—with the role of the school boards. School boards are just a bureaucracy. School boards are not the ones that should be planning for community services. We've got four of them in the city of Toronto, and if you really look at it outside of what happened with the Constitution, no sensible person would design an educational system as it is now. You must provide a clear road map, you must define outcomes and you must cut the implementation period.

Quality is of most importance. You must insist that all kindergarten educators must have qualifications that include courses on child development. Maybe it's going to take five years for that period, but do that. You should change subsection 260(1) to require that all staff in extended day programs are ECEs or teachers. The act already has the ability to exempt temporarily for one year, when there is not enough of a supply of qualified staff. There is no reason not to have every single staff ECE-qualified.

You must require an integrated, common curriculum for extended day programs and integrate it fully with the full-day component of the program. You must also require that the extended day programs be offered on a year-round basis, and you should change subsection 259(2) accordingly. The cost of not doing it is too great for children, it's too great for parents, it's too great for staff, communities and, ultimately, the child care system.

Finally, I would say, you must be bold. This should be a transformative change of early learning and child care. This should be a transition period, a transformation, but not this long-term pain that we're facing over six years.

1720

Mr. Rosario Marchese: It would be longer. Sorry.

Mr. Petr Varmuza: Thank you. Finally, I would say—

Interjection.

Mr. Petr Varmuza: No, I—

The Chair (Mr. Shafiq Qaadri): Mr. Varmuza, I'll need to intervene there. I don't know if I'll add or subtract Mr. Marchese's addition to your speech. But in any case, thank you very much for your presentation and your presence today and your very learned remarks. I'm sure the committee will consider them.

WEST END PARENTS' DAYCARE

The Chair (Mr. Shafiq Qaadri): I will now invite our next presenter to please come forward: Ms. Lavoie of

the West End Parents' Daycare centre, and entourage. Welcome, and please begin.

Ms. Marit Stiles: Thank you. I guess I'm the entourage. Good afternoon. Thank you for the opportunity to speak to this very important bill.

The Chair (Mr. Shafiq Qaadri): Entourage, we need to know names.

Ms. Marit Stiles: My name is Marit Stiles. I am a working parent of two daughters in senior kindergarten and grade 3, and I currently sit on the board of the West End Parents' Daycare, which is my children's daycare.

West End is a parent-run, non-profit daycare operating in downtown Toronto since 1975. Currently, our centre offers child care for up to 110 children aged 18 months to 10 years. Our excellent staff, who are almost entirely early childhood educators, are represented by CUPE 2484.

First, I want to tell you that in many ways, I am truly sorry that by the time full-day early learning comes into effect, my children would be too old to benefit from it. I think all of us who care about children and education are excited by the prospect of full-day learning.

But today, my fellow board member Brigitte Lavoie and I are here to warn you that this important program, as currently envisioned, is doomed to fail without a significant investment in child care and stabilization funds.

Full-day early learning cannot succeed without quality, affordable child care. The way daycares are currently financed—or, rather, not adequately financed—means that full-day learning risks shrinking child care services, reducing spaces and thereby undermining families, especially low-income families.

If you team full-day learning with the already dramatically underfunded child care system in Ontario, you have an emerging crisis. If the provincial budget doesn't restore the \$63.5 million to child care, we will see spaces lost and a projected 3,480 parents leaving the workforce because they cannot afford child care. All those economic benefits that should have come from full-day learning will be lost.

When I think ahead to the next few years, here is what keeps me up at night: A single parent, with a toddler and a four-year-old child, who depends on a subsidized space in our daycare. Imagine that her four-year-old is now attending school from 9 to 3:30. Now imagine that the daycare she depends on shuts down, and there are no other subsidized spaces available that service that school. She must now choose between her low-income job, a job that likely barely allows her to cover rent and food, and making sure that she is there at 3:30 to pick up her child. Well, that's no choice at all.

That is the crisis we are seeking to avert in our community. I am turning this over to our treasurer, Brigitte Lavoie—and I should mention we're both volunteers, of course, on our parent-run daycare board—to explain to you in very specific terms how this scenario emerges.

Dr. Brigitte Lavoie: Thanks, Marit. I'm Dr. Brigitte Lavoie. I'm a professor and a cancer researcher at U of T,

but I'm speaking to you right now as a parent and as treasurer for West End Parents' Daycare.

As a not-for-profit daycare, my board and I are very concerned about the impact full-day learning will have on the financial viability of our centre.

Currently, the kindergarten stream accounts for 34% of our fee revenue, and its loss, in the absence of additional funding, will mean a revenue shortfall for us of over \$278,000.

On the face of it, the contention that providing full-day learning in schools for kindergarten-aged children should result in the creation of new spaces seems very straightforward. Unfortunately, as former presenters have already mentioned, the reality of the situation is that because of the higher staff-to-child ratios mandated by the Day Nurseries Act, baby, toddler, and preschool rooms are much more expensive to operate, and they either run at a loss or just barely break even. For example, our toddler program runs at a yearly loss of about \$30,000, while our preschool program almost gets by with a \$5,300 deficit. As such, we rely on the revenue from the more profitable kindergarten and school-aged streams to subsidize our programs for under-four-year-olds.

Given the space and staff-to-child ratio limitations, we cannot make up for the loss of revenue from losing our kindergarten stream by simply offering spaces for younger children without a huge increase in fees to make these streams profitable. For instance, fees for toddlers and preschoolers would have to increase by over 20% at our centre so that we would remain financially viable. That would translate to a fee increase of about \$200 a month—\$193 for a preschooler or \$230 for a toddler—when for most families, child care already accounts for the second-largest expense next to the mortgage.

The bottom line is, as a parent, I'm really excited about the prospect of full-day learning. I think it's a very courageous move. It requires great vision. However, its implementation is definitely challenging.

As a board member of West End Parents' Daycare, I foresee that without additional stable funding to subsidize our more expensive daycare programs, the real impact of full-day learning is that centres like ours will be unable to offset the financial loss of our kindergarten streams. This is a threat not only to our current programs for the under-four-year-olds but also to our very financial viability, which ultimately would lead to a net decrease in daycare spots.

What we need to save the situation is twofold: additional stable funding to offset the loss of kindergarten revenue, and a clear implementation strategy for full-day learning so that we can start to plan our future as well. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About a minute per side, beginning with Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you—a great presentation. I think you're the first set of parents we've heard from today. You're the people who will feel it the second-most after the children.

A previous speaker said, "Don't build this on a patchwork of services." I think you've outlined that the operation of your child care centre is actually based on subsidies: The older kids really subsidize the child care. You've also said that for four- and five-year-olds, this is a tremendous move forward, so we don't want to stop that. We don't want your centre to fold or to lose money, so it seems to me we need to address how your child care centre and all others across Ontario actually operate. Is that a fair assumption?

Dr. Brigitte Lavoie: Certainly it is clear that the toddler and the preschool fees do not reflect the actual cost of child care.

Mr. Kevin Daniel Flynn: Is that the real issue?

Dr. Brigitte Lavoie: Yes, and the fact that people couldn't afford it—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Jones.

Ms. Sylvia Jones: Your presentation has reinforced what we've been hearing for most of the afternoon, so I don't have any specific questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Marchese.

Mr. Rosario Marchese: I just want to thank the two of you for coming. You're not workers in the field, you're not an association, but parents who clearly understand that as much as this is a good thing, unless we deal with the unintended consequences, many child care centres are going to be threatened. I just wanted to thank you for taking the time to come and remind us of that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Stiles and Dr. Lavoie, for your deputation on behalf of West End Parents' Daycare.

GEORGE BROWN COLLEGE SCHOOL OF EARLY CHILDHOOD

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Rubin of the George Brown College School of Early Childhood, sans entourage. Welcome, and please begin.

Ms. Patricia Chorney Rubin: Good afternoon. I'm Patricia Chorney Rubin, the director of early childhood at George Brown College.

George Brown College is one of 24-some-odd community colleges that provide training to the future employees of full-day early learning and other aspects of the sector. At George Brown College we are indeed ready to stand behind the government in terms of its development of full-day early learning programs and are ready to offer our support and expertise as it continues to develop.

We have a large program, some few hundred students ready to graduate soon, and we also operate nine lab school child care centres, so about 400 children and their families. We, like many here, certainly do support the vision and the go-forward of full-day early learning. Like many, we recognize that change is difficult and it's hard to have a platform of change and not change things.

1730

At George Brown College, we are very proud of the programs we operate, in terms of four- and five-year-olds, and some after-school programs. We think we provide some of the finest programs, certainly, if I may be so bold as to say, in the country. But we recognize that as we move forward we may have to change the way in which we do what we do as full-day early learning moves forward.

We recognize that our programs are excellent and children and families have access to them, but we recognize the importance of fully funded programs and that all children in the province have access to these kinds of programs.

I agree with what many folks have said already. We've already lifted the notion of early childhood educators working in teams with kindergarten teachers, bringing two sectors together in terms of their professional training, to offer high-quality programs.

I'm going to stick a pin in some of the comments that have already been made: the notion of early childhood educators who are paid according to the true value of the work and pay equity; the notion of looking at the ratio and having a cap on it, that 1-to-13 ratio, and recognizing that the class of 1-to-13 is a ratio that we need to pay attention to and be careful that we don't go down that slippery slope of 30 or 32 or 33.

Again, like many, I will also identify that the stabilization of the existing child care programs, such as our own at George Brown College, is essential. Moving forward with the implementation of Best Start child and family centres in tandem with the establishment of full-day early learning programs is indeed the best strategy to go forward with. Like others, we are recognizing that just going forward with full-day early learning for fours and fives and not having a clear vision for the child and family centres, not ensuring that there are resources allocated to the under-fours, will indeed result in huge problems for children and families in the province. The vision was not about promising practices for fours and fives at the expense of the experience for children under four.

George Brown College, like other colleges and universities, is poised to support the implementation of full-day early learning for children and is ready, willing and able to work with government and community partners to establish the framework for the child and family centres. We're also keen to ensure that research informs the progress, programs, policy and practice as we go forward.

There has been discussion about whether or not there will be enough early childhood educators to ensure that there truly is an early childhood educator working in partnership with kindergarten teachers. Colleges across the province graduate about 2,500 graduates a year. Colleges are coming together with universities to look at planning to ensure that we will indeed be graduating enough early childhood educators as we move this out over the next five years.

Clearly, there are important issues that have been raised today. They are important bumps along the road

and we need to pay attention to them. I think we are better than the sum total of all the problems as we go forward with transformational change, but they are important to pay attention to.

I'd be very happy to defer my time to Petr Varmuza, should you have any further questions, because clearly he is one of the experts in the room. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Professor Rubin. Beginning with the PC side, about 90 seconds or so.

Ms. Sylvia Jones: No, I don't have any additional questions, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: I enjoyed Petr's remarks as well. Maybe you should give me his telephone number so I can talk to him.

Just a quick question on the ratio: You heard Mr. Flynn say the ratio is 13 to 1. I just need to remind everyone, the ratio is not 13 to 1. It could be 13 to 1, but it could be higher. He doesn't say this. That's why some of us are saying that we should say there's going to be a cap. I'm assuming you agree on the cap.

Ms. Patricia Chorney Rubin: We're in agreement to pay attention to those numbers around good practice, absolutely.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for the presentation. Thank you for your support of the concept and its implementation. You deal with this; obviously, you see the young people who are going to go into this field and the future that they face. Often in the past, I think people went into the field out of the goodness of their hearts, because when they looked at the salary grid, they knew they weren't going to be making a lot of money. It was more something they really loved to do than it was something that you could buy a big, beautiful house on.

That's got to be exciting for the profession, but from an academic point of view, when you look at our country and the fact that it still doesn't have a national child care strategy, Ontario's trying to do the best it can. The opposition parties have been quite cooperative on this—to date, anyway—and I think they want to see the same thing. What would a national child care strategy add to this debate, for example?

Ms. Patricia Chorney Rubin: It certainly would add in terms of some cost-sharing and some of the issues that we have been identifying. I think that many in the room have already agreed on what should be done; I think most people believe the "what"—the notion of publicly funded early years programs, and many are getting close to how it should be done. We're having problems with the "who"—who should be doing what. A lot of that comes with a strategy that hasn't been clearly resourced as yet. As Petr said, do it right for the right reasons, with the right resources.

Mr. Kevin Daniel Flynn: With the feds as a partner, this would be easier?

Ms. Patricia Chorney Rubin: I think we need to come together without finger-pointing, but absolutely, a

national policy. It didn't stop Quebec, but I do think a national policy—

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Flynn, and thanks to you, Professor Rubin, for your deputation on behalf of the George Brown College School of Early Childhood.

TODAY'S FAMILY—EARLY LEARNING AND CHILD CARE

The Chair (Mr. Shafiq Qaadri): I would now welcome back Ms. Flaherty of Today's Family—Early Learning and Child Care. Welcome. We'll distribute those. I would invite you to—

Interjection.

The Chair (Mr. Shafiq Qaadri): Thank you. Please begin.

Ms. Marni Flaherty: Thank you for inviting me and my colleagues here today to present to you the concerns surrounding the language and implementation of Bill 242, as it currently stands. As you know, my name is Marni Flaherty and I'm the CEO of Today's Family, an early learning and child care organization in Hamilton and the surrounding areas. We're also a member of the Quality Early Learning Network.

We have been providing quality licensed child care for families for more than 27 years, and today our programs meet the needs of more than 4,000 children every day. We believe in parental choice, and our services for families include early learning and child care programs; licensed home-based early learning and child care; Ontario early years centres; before- and after-school care programs; and summer camps.

I am also a parent of three children and a resident of Ontario, and I am here today to tell you that I am very concerned about the potential impact of Bill 242.

Before I speak directly to my concerns about the bill, I'd like to explain to the committee the valuable role of partnerships in a community like Hamilton to provide an integrated care and education system for children ages zero to 12 in our province.

Six years ago, the Ontario Liberal government set out a bold plan for children. The Minister of Children and Youth at that time, the Honourable Marie Bountrogianni, announced a 10-year plan for Ontario's children. We were really excited about that plan. This plan was called the Ontario Best Start plan. This was a philosophy for change, a commitment to families and children to work differently in the province to ensure that we had an integrated early years system. Schools, early years programs, public health services, recreation and libraries came together in a meaningful, collaborative way to best serve our children.

Hamilton was chosen as one of three demonstration sites in Ontario. I have had the honour of a co-chair position of a parent engagement committee for Hamilton's Best Start network. The work that these demonstrations sites have done over the years is tremendous. We worked with the city and with high-quality partners

including the Hamilton YMCA and school boards in elementary and secondary school locations. Our partnerships with school boards have supported the Best Start vision and child care for children and families, providing great benefits for families and children.

1740

The Best Start collaboration provided a seamless day for children and parents, an opportunity to partner with teachers to support children's learning and promote readiness for grade 1, improved access for service to parents with children aged 18 months to 12 years, and excellent collaboration with neighbourhood Early Years partners to increase access to information for parents and caregivers. There's even an economic benefit: supporting employment and mitigating poverty.

All of this is consistent with the recommendations and vision in Charles Pascal's report, *With Our Best Future in Mind: Implementing Early Learning in Ontario*, and with the Premier's message to all of us when he said, "Ontario will call on its community partners to plan and develop before- and after-school programs for six- to 12-year-olds where there is sufficient parent demand."

In Hamilton and across the province, people are doing just that. Children and families are at the centre of the flexible community model already offered in collaboration with schools. There are already partners in the schools working together to provide a seamless day rich with arts, recreation, homework supports and other out-of-school opportunities for our children. We believe it takes a community to raise a child.

I am here today to tell you that Bill 242, as written, seriously threatens to undo all the good work that has been done in communities such as Hamilton. Perhaps even more seriously, it threatens to destabilize the well-developed and much-needed services of not-for-profit child care and early learning in Ontario.

As you know, Bill 242 authorizes and mandates all school boards to operate full-day learning for four- and five-year-olds in junior and senior kindergarten in elementary schools. But it also states that every school board "shall operate extended day programs for four- and five-year-olds before and after school."

This sentence has enormous repercussions for the network of community-based agencies and partners that today provide care and early learning for tens of thousands of children in Ontario. The act, if passed, would require school boards to establish and operate separate extended day programs despite the fact that collaborative and co-located services in the schools already exist.

The bill, as written, effectively excludes partnerships with quality, community child care providers who have the experience and expertise to deliver those programs. It would disrupt and duplicate existing service options for families which occur 12 months of the year. This bill threatens to undo the great strides made in collaborative work across Ontario around the Best Start initiatives.

As well, and perhaps even more seriously, the bill would destabilize and potentially threaten the sustainability of child care programs for infants and children

aged zero to 3.8. As this committee knows, the child care model in Ontario relies on a funding and wage subsidy program and a mix of age cohorts that manage cost efficiencies. The model has evolved to compensate for widespread underfunding.

Infants and toddlers require the most amount of care and demand the most resources, making them the most expensive cohort. It is only the mix of care that includes older children that makes this model affordable while still providing high-quality, licensed and regulated care. This bill, as currently drafted, threatens the provision of quality child care and early learning in Ontario.

I have come here today to ask you, the government, to take steps to ensure that quality child care continues in Ontario. We would ask that you amend Bill 242 to allow school boards to partner with community organizations, to immediately announce stabilization funding to support quality child care for children aged zero to 3.8, and to establish a funding mechanism for the child care sector that would build on existing partnerships, support and develop the quality programs in existence and encourage community-based initiatives in collaboration with school boards across the province.

Much depends on your decision. We in the not-for-profit child care world are committed to working with school and community partners to provide the best care and early learning for children. We want to make cities like Hamilton and the entire province the best place to raise a child.

Ontario needs a strong, healthy and sustainable child care sector to provide high-quality care that will prepare children for the full day of learning. We are in full support of the proposed amendment that has been presented by the Quality Early Learning Network, YMCA Ontario and Boys and Girls Clubs of Canada. Please help us make this happen. Thank you for your consideration and time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Flaherty. We have about 20 seconds per side. Mr. Marchese.

Mr. Rosario Marchese: Thank you. You were saying very much what others have been saying, and Mr. Varmuza's three rights apply: Is it the right thing—and we all agree; are we doing it right—and we've got concerns; and are we getting the right resources—and we're not. Unless we fix that, it's going to be a problem.

The Chair (Mr. Shafiq Qaadri): Mr. Flynn.

Mr. Kevin Daniel Flynn: Mr. McMeekin has a great question.

Mr. Ted McMeekin: No question, just a comment: It was a marvellous presentation, but I would expect nothing less, knowing what I know about the history. Thank you for everything you do. I think there's a lot we can learn about real collaborative leadership and partnership from the model in Hamilton and I really appreciate—

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones.

Ms. Sylvia Jones: I'm curious, and maybe this is an unfair question to you, but have you ever had any justi-

fication for why the bill is written the way it is in terms of not allowing those partnerships?

Ms. Marni Flaherty: I think the bill's written so that these services have to be in all the schools, and I think that's the right thing. But I'm not sure why there's—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Ms. Flaherty, for your deputation on behalf of Today's Family—Early Learning and Child Care.

COLLEGE OF EARLY CHILDHOOD EDUCATORS

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: Ms. Mahon, Ms. Tarshis, and Ms. Juozapavicius, which is likely Armenian.

Mr. Rosario Marchese: Lithuanian.

The Chair (Mr. Shafiq Qaadri): Lithuanian, there you go.

Welcome, and please begin.

Ms. Lois Mahon: Good afternoon. My name is Lois Mahon, and I'm the president of the College of Early Childhood Educators. Beside me is Debbie Tarshis, our legal council, and Dainora Juozapavicius, our registrar and CEO. I would like to thank you for the opportunity to make this presentation to the standing committee on Bill 242.

The College of Early Childhood Educators supports the legislative changes to the Education Act, Early Childhood Educators Act, and other statutes proposed by Bill 242. We believe that the proposed amendments establish the framework necessary for the implementation of full-day learning for four- and five-year-olds. We believe that Bill 242 recognizes the new and unique role that early childhood educators are intended to play in the full-day learning classroom, both during the regular school day and when they lead the before- and after-school programs. We make recommendations which we believe will strengthen the bill in accomplishing its objectives and some technical amendments to support the college in meeting certain requirements under the Education Act.

The College of Early Childhood Educators is a regulatory body for ECE in Ontario. Our mandate is to serve and protect the public interest through self-regulation of the profession of early childhood education. Since 2008, we have registered more than 26,000 early childhood educators. The objects of our college: to regulate the practice of ECE and govern our members; to develop, establish and maintain qualifications for membership; to issue certificates of registration; to establish and enforce professional and ethical standards; to receive and investigate complaints against members of the college; to deal with issues of discipline, professional misconduct, incompetence, and incapacity; and to promote high standards and quality assurance with respect to early childhood educators.

In our support of Bill 242, we also recognize that there is a need for regulations, policies and guidelines to be made to further implement and define full-day early learning for four- and five-year-olds. We believe these will be critical to ensure that the full-day early learning program provides high-quality and effective play-based education for children, and also to ensure that early childhood educators—professionals who are qualified to deliver high-quality education and care for children, and who are registered and regulated by the college in the public interest—are employed by school boards as intended in Bill 242, and that these ECEs are permitted to practice in the full-day learning program to the full extent of the scope of practice of early childhood education as set out in the ECE Act.

1750

We look forward to working with the government during these next critical stages.

You will find all of our recommendations and details in our submission. I'd like to highlight for you our first three recommendations:

(1) That in light of the critical role that the regulations, policies and guidelines will play in the implementation of the full-day early learning program, the government continue to consult with stakeholders, including the college, as the regulations, policies and guidelines are being developed.

(2) That the government proceed with the proposed amendments to the Education Act related to the definition of “designated early childhood educator” and “early childhood educator”; the requirements for school boards to designate at least one position in junior kindergarten, kindergarten and the extended day program class as requiring an early childhood educator; the requirements for school boards to appoint an early childhood educator to each designated position; the requirement that an early childhood educator must be in addition to the teacher assigned; and the requirement for membership in the College of Early Childhood Educators; and that through broadly based communications with school boards, registered early childhood educators and other stakeholders, the government communicate about these important provisions and the requirements they impose on school boards to hire registered early childhood educators and clarify any confusion regarding the term “designated early childhood educator” and other matters.

(3) That when the government makes regulations with respect to the criteria governing the granting of a letter of permission, careful consideration be given to the conditions prescribed for such purpose, and that different and additional conditions from the ones that are set out in the current regulation be considered.

The college proposes, in addition to the types of conditions as set out in regulation 142/08, with respect to advertising positions for early childhood educators, there be an increased number of times of required advertising, increased time periods and an increased variety of methods of required publication compared to the advertising provisions as set out in the regulation; and that

the following restrictions be set out in order for an individual to be eligible to be granted a letter of permission:

If an individual was previously granted a letter of permission, the individual must demonstrate within a two-year period that he or she is taking or has taken measures to obtain a diploma in early childhood education from an Ontario college of applied arts and to become a member of the college; and, no letter of permission may be granted to the same individual more than three times.

With respect to the number of letters of permission, there should be restrictions on the aggregate number of letters of permission to be granted by a board with respect to any particular school year, an obligation for boards to report annually on the aggregate number and an obligation for boards to make these reports publicly available.

The college also suggests that, especially in the first number of years of implementation of the early learning program, the minister maintain direct oversight and control regarding the granting of letters of permission and not delegate this authority. The college would welcome the opportunity to collaborate with the government with respect to the development of a regulation regarding these letters of permission.

The college is committed to the regulation of the profession of early childhood education in the public interest. We believe that Bill 242 will establish the framework necessary for the implementation of full-day early learning for four- and five-year-olds. We are pleased that it recognizes the new and unique role that early childhood educators are intended to play in the full-day learning program. We believe our recommendations will strengthen the bill in accomplishing its objectives.

Thank you so much for the opportunity to make this submission to the standing committee and for the committee's consideration of the college's submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mahon. A minute per side, beginning with Mr. Flynn.

Mr. Kevin Daniel Flynn: I just want to thank you for the presentation, certainly. Obviously you support what's before us today. This can be done by next September, though, right? This is possible?

Mr. Rosario Marchese: Just say yes. That's what he wants to hear.

Ms. Lois Mahon: We are working diligently with our members and with the ministries to look at making that happen.

Mr. Kevin Daniel Flynn: Okay. But there are people here who are saying that this is quite complex and we can't get to that. I'd agree with you that we can. I just needed to hear you say that.

Interjections.

Mr. Kevin Daniel Flynn: Rosie won't say it, but he knows it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Jones.

Ms. Sylvia Jones: Leading the witness.

I just wanted to thank you for your presentation. I'm not sure how long you've been here this afternoon, but the consistent praise for ECEs and what they do in that early learning has been reinforced a lot. So we appreciate your work.

Ms. Lois Mahon: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Marchese.

Mr. Rosario Marchese: OSSTF raised a good question. They said you're likely to have different unions representing the early childhood educators and the other boards all over Ontario, so there's likely to be conflict between the two and students might be affected. Have you anticipated that eventuality and how would you deal with that, or what would you propose to deal with the potential conflict that might arise, if any?

Ms. Lois Mahon: In the regulation of our profession in dealing with professional and ethical standards, we would expect our members to maintain the standards of practice, the ethical and professional standards that we set, and if they are unable to do that, we'd deal with that through the college processes.

Mr. Rosario Marchese: Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese, and thanks to you, Ms. Mahon, Ms. Tarshis and Ms. Juozapavicius, of the College of Early Childhood Educators.

SOUTH ASIAN WOMEN'S RIGHTS ORGANIZATION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, Ms. Jahangir and Ms. Islam of the South Asian Women's Rights Organization. Welcome, and I'd invite you to please begin now.

Ms. Sultana Jahangir: Thanks for the invitation. I'm sorry to say that my colleague Ms. Islam got sick, so she couldn't make it, so I came here to talk.

My name is Sultana Jahangir. I'm the executive director of the South Asian Women's Rights Organization. I have been asked by a group of low-income immigrant women from east Toronto to represent their views regarding the early learning initiative of the Ontario government and their views on the legislation being considered.

The immigrant women of our community only have access to low-wage jobs, despite high levels of education they brought with them as skilled worker class immigrants. These jobs do not provide enough income to pay for child care, even unlicensed child care, what we call "dumping the kids in someone's basement." Without government child care support, we cannot work. Our families are locked in poverty.

When Premier McGuinty announced in June that the Pascal report would be implementing starting in September 2010, the women were very excited and began making their plans to get to work or to work on bridging their international credentials. We were especially happy

about the Premier's promise to make low-income neighbourhoods the focus of the first phase of the project. We were sure that our community would be involved in the rollout since it is one of the poorest in the city.

But as the English expression says, "The devil is in the details." It turned out that the promise had escape clauses. Provincial criteria were established through a process lacking transparency that served to exclude the most needy neighbourhoods in Toronto from the phase 1 rollout. A construction and renovation ban meant that the overcrowded schools in immigrant communities would not be involved in phase 1 and that they could be excluded for years to come. Schools are not built or renovated overnight. We have the bizarre situation with the first phase of full-day kindergarten and extended day-care for four- and five-year-olds—kindergartens where there are no children and no children where there are kindergartens.

In my native Bangladesh, we also have an expression, "The dawn predicts the day." So you will have to excuse me and my community if we have been soured on the Ontario early learning initiative. There is a child care and early learning system in place in Ontario today that excludes and marginalizes low-income women, and the dawn of the early learning project is predicting more exclusion and marginalization for us.

With respect to the act before the committee, the concern among my community centres on the question of subsidies for the extended day portion of the all-day learning project; for example, section 25 of the act dealing with the amendments to section 2.2 and subsection 18(1) of the Day Nurseries Act.

These sections provide for negotiations, agreements and arrangements between the government and the school boards and municipalities regarding fee subsidies for low-income families taking part in the extended day portion of all-day learning for four- and five-year-olds. But there is no clear guarantee of entitlement for low-income families to participate in the extended daycare programs. There is not even a clearly stated policy that fee subsidies will be ensured for every child who requires one.

My community would like the government to take the bill back and put guarantees into it that no child will be left out because her family can't afford fees for extended care.

The laws of Ontario already provide for the entitlement of low-income families to child care fee subsidies. But the provincial contribution to the cost-sharing of these subsidies with the cities has been capped. Our entitlements are unfunded. We are not being cynical when we ask for some guarantees in writing in the legislation for the entitlement of low-income families.

Moving forward, we would also like to see more transparency and less political spin in connection with the implementation of the early learning plan. People's lives are severely impacted by policies on this question, even on the timing of the policies. Important decisions like buying houses, having children and which com-

munity to live in all hinge on these policies. People have a right to be informed about the policies being developed and have an opportunity to make their views known. There was an obscene haste and secretiveness associated with phase 1 of the ELP project that is unacceptable.

It is not being cynical to ask for consultation or for fee subsidy guarantees to be written into the act because it seems like the government doesn't even realize there is a problem. The website of the Ministry of Child and Youth Services talks about "keeping licensed child care accessible for all families." For the government's information, licensed child care is not accessible for most families, and certainly not for Toronto's low-income families. There are almost 90,000 low-income children eligible for child care fee subsidies, including 17,000 children on the official waiting list. But the provincial government only funds 24,000 children.

Low-income women have many allies who will be appearing here, including the Ontario Coalition for Better Child Care, OPSEU, CUPE, the teachers' federations and other trade unions, as well as Campaign 2000 and other agencies. They will make a good business case for Ontario replacing the \$63 million a year that Stephen Harper diverted out of the low-income subsidies into vote-buying schemes. We stand with these allies on this issue. Six months ago, Deb Matthews, then child and youth minister, told a group of women from our community that the Ontario government was digging in on this and not going to replace the federal money. This was not accepted by our community then, and it is still an unacceptable position.

I am only a newcomer, here, but I know that social policy is clearly a provincial responsibility. The provincial government should take up its responsibility. People are sick of the blame game among levels of government. Do your job, please.

While we support our allies' position on the missing \$63 million, we are also here to say that the status quo on the underfunding of subsidies is unacceptable. Putting back the \$63 million that Harper took out isn't enough. Maintaining the current system that excludes most low-income women and children will not do.

Our communities need the province to fully fund the child care entitlements of low-income families. This is a matter of the fundamental right of people in our communities to live in dignity. The government should write low-income subsidies into the current bill. It should uncap the funding for transfers to the cities to eliminate the waiting lists. There is no excuse for not doing so.

Ontario is crying poor these days, but Ontario's economy is still more than twice the size of Quebec's. Yet Quebec spends three times more per child than Ontario on child care—twice as much in absolute terms. People know about the discrepancy. People also know that the dependency rate, the participation of women in the labour force and the productivity of female workers have all improved in Quebec since a universal child care system was introduced. Poverty has decreased. People

know that there is nothing stopping Ontario except the political will to do so.

When our allies appear, they will say that they are glad to see that the government, at least in words, has finally accepted a small portion of its responsibility to provide child care and early learning to parents without cost. We, too, see that this legislation represents some progress, provided that in the details low-income families are not excluded. The bill requires some guarantees for low-income subsidies and some consultation with communities written in.

But first and foremost, we want the government to start fully funding the legislation that it already has on its books to support low-income families. Then, children and youth services won't be lying when it brags about "keeping licensed child care accessible for all families." Then our families won't be excluded.

I'm coming for the communities that were designated as poor communities. We are excluded from full-day kindergarten. We went to the principal, we went to the

trustee, we went every place to ask why we were being excluded. We didn't get any kind of explanation from them, and we didn't get any answer about what their plan is for the next year. Are we in the second phase or not? We are frustrated, and we really need an answer from the government. What is their plan for this low-income group of women, and what is their plan to implement full-day kindergarten for our school?

Thanks, everyone.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jahangir, and thank you as well for your exactly timed remarks of 10 minutes. I'd like to thank you on behalf of the committee for your presence today on behalf of the South Asian Women's Rights Organization.

Just to alert the committee, as we have a number of francophones, nous clôturons les travaux de notre comité à 16 h demain to another room, room 151, beginning at 4 p.m. sharp.

Committee adjourned.

The committee adjourned at 1801.

Continued from back cover

Schoolhouse Playcare Centres of Durham	SP-28
Ms. Denise Gilbert	
Ms. Karen Monaghan	
Association of Day Care Operators of Ontario	SP-30
Ms. Kim Yeaman	
Mr. Petr Varmuza.....	SP-31
West End Parents' Daycare.....	SP-32
Ms. Marit Stiles	
Dr. Brigitte Lavoie	
George Brown College School of Early Childhood.....	SP-34
Ms. Patricia Chorney Rubin	
Today's Family—Early Learning and Child Care	SP-35
Ms. Marni Flaherty	
College of Early Childhood Educators.....	SP-37
Ms. Lois Mahon	
South Asian Women's Rights Organization	SP-38
Ms. Sultana Jahangir	

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale—High Park ND)

Mr. Rick Johnson (Haliburton—Kawartha Lakes—Brock L)

Ms. Sylvia Jones (Dufferin—Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry—Prescott—Russell L)

Mr. Ted McMeekin (Ancaster—Dundas—Flamborough—Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London—Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener—Waterloo PC)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Mr. Rosario Marchese (Trinity—Spadina ND)

Mr. David Zimmer (Willowdale L)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service

CONTENTS

Monday 22 March 2010

Appointment of subcommittee	SP-1
Subcommittee report	SP-1
Full Day Early Learning Statute Law Amendment Act, 2010, Bill 242, Mrs. Dombrowsky / Loi de 2010 modifiant des lois en ce qui concerne l'apprentissage des jeunes enfants à temps plein, projet de loi 242,	
Mme Dombrowsky	SP-1
Ms. Kate Tennier.....	SP-2
YMCA Ontario	SP-3
Mr. Shaun Elliott	
Ms. Linda Cottes	
Ontario Public School Boards' Association.....	SP-5
Ms. Colleen Schenk	
Mr. Riley Brockington	
Ms. Catherine Fife	
Beatty Buddies Daycare.....	SP-7
Ms. Lisa Winters-Murphy	
Family Day Care Services.....	SP-9
Mr. Doug Brown	
Ms. Joan Arruda	
Ontario Principals' Council.....	SP-10
Mr. Doug Morrell	
Quality Early Learning Network.....	SP-12
Ms. Sharon Filger	
Boys and Girls Clubs of Canada	SP-14
Ms. Sandra Morris	
Faywood Boulevard Child Care.....	SP-16
Ms. Kim Cullen	
Building Stronger Futures.....	SP-17
Ms. Juana Maria Diaz	
Ms. Christine Fleming	
Home Child Care Association of Ontario	SP-18
Mr. Spyros Volonakis	
Ms. Marni Flaherty	
Ontario Secondary School Teachers' Federation.....	SP-20
Mr. Ken Coran	
Mr. Dale Leckie	
Mr. Brad Bennett	
Atkinson Centre for Society and Child Development.....	SP-22
Ms. Zeenat Janmohamed	
Child Development Institute	SP-23
Ms. Nada Martel	
Mr. Tony Diniz	
Campaign 2000/Family Service Toronto	SP-25
Ms. Laurel Rothman	
Canadian Union of Public Employees, Local 2484	SP-27
Ms. Marsha Duncan	

Continued on inside back cover



SP-2

SP-2

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Tuesday 23 March 2010

Journal des débats (Hansard)

Mardi 23 mars 2010

Standing Committee on Social Policy

Full Day Early Learning
Statute Law
Amendment Act, 2010

Comité permanent de la politique sociale

Loi de 2010 modifiant des lois en
ce qui concerne l'apprentissage
des jeunes enfants à temps plein



Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 23 March 2010

Mardi 23 mars 2010

*The committee met at 1559 in room 151.*FULL DAY EARLY LEARNING
STATUTE LAW AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'APPRENTISSAGE
DES JEUNES ENFANTS À TEMPS PLEIN

Consideration of Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters / Projet de loi 242, Loi modifiant la Loi sur l'éducation et d'autres lois en ce qui concerne les éducateurs de la petite enfance, la maternelle et le jardin d'enfants, les programmes de jour prolongé et d'autres questions.

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance de notre comité.

ASSOCIATION DES CONSEILS SCOLAIRES
DES ÉCOLES PUBLIQUES
DE L'ONTARIO

Le Président (M. Shafiq Qaadri): Notre premier présentateur est l'Association des conseils scolaires des écoles publiques de l'Ontario. J'invite maintenant M. Marion et aussi M^{me} Pinet. Je veux vous informer des règles. Vous avez 10 minutes pour votre présentation. S'il reste du temps après, on divise par trois ce temps pour des questions par chaque parti. Je vous invite à commencer maintenant. Merci.

M^{me} Louise Pinet: Monsieur le Président, madame et messieurs les députés, ça me fait vraiment plaisir d'être ici pour présenter la position de l'Association des conseils scolaires des écoles publiques de l'Ontario. Je voudrais vous dire que M. Marion est toujours en vacances en Floride, ce qui fait que, moi, je dois travailler et venir présenter nos vues aujourd'hui.

Je voudrais parler de la situation unique des conseils scolaires publiques. Nous avons 165 écoles régionales à l'élémentaire et, à chaque fois que nous allons et que les jeunes viennent dans nos écoles, ils doivent passer devant 3,16 écoles catholiques. Si on prend juste la situation qui a lieu et qui aura lieu en septembre prochain avec 600 écoles qui vont offrir le programme, cela veut dire, en principe, si tout était réparti également, que les parents

devront passer devant 45 écoles avant de se rendre chez nous. Alors, comme vous voyez, il n'y a pas d'autres conseils scolaires qui se trouvent dans une situation comme la nôtre.

Toutes nos écoles élémentaires offrent déjà la maternelle et le jardin d'enfants à temps plein, et nous avons établi des partenariats avec les services de garde pour offrir les services avant et après les heures de travail. Qui plus est, 90 % de nos élèves prennent l'autobus.

L'ACÉPO est complètement en accord avec les énoncés du préambule du projet de loi. Preuve à l'appui, les programmes de maternelle et de jardin à temps plein ainsi que des programmes avant et après les heures de classe sont déjà une réalité chez nous.

Les membres de l'ACÉPO ont su réduire les écarts en ce qui a trait au rendement des élèves, grâce, entre autres, aux services supplémentaires que nous offrons aux jeunes de quatre et de cinq ans.

Les membres de l'ACÉPO font tous les efforts pour assurer le succès du nouveau programme d'apprentissage des jeunes enfants proposé par le gouvernement, mais nous anticipons de grandes difficultés dans la mise en œuvre.

Les communautés de langue française sont fragiles, et leurs institutions doivent être protégées. Le projet de loi ne laisse pas aux conseils scolaires de langue française le choix de maintenir les partenariats de langue française dans l'offre de services de garderie ou de programmes avant ou après l'école. Nous craignons perdre des services actuellement offerts en français dans nos communautés.

Le paragraphe 25.1 permet aux écoles de langue anglaise d'offrir des services en français à ce niveau-là. Ne vous méprenez pas : nous voulons que le plus grand nombre d'élèves parlent français, mais nous craignons que cette offre aura pour résultat d'inciter les parents qui ont le droit d'inscrire leurs enfants dans une école de langue française d'inscrire leurs enfants dans une école plus proche du domicile, soit une école de langue anglaise.

Il fait remarquer que dans ce texte, il ne dit pas « uniquement pour les écoles d'immersion ». Les écoles de langue anglaise peuvent offrir dans toutes leurs écoles, peu importe qu'il y ait ou pas des services d'immersion, des services en français pour les jeunes de quatre et de cinq ans. Cette migration augmentera le taux d'assimilation des francophones; nous en sommes certains.

La pénurie de personnel enseignant qualifié, jumelée à un bassin peu nombreux d'éducateurs de la petite enfance qualifiés, risque de miner davantage la capacité des conseils scolaires de langue française de livrer un service de qualité. Rappelons que les éducateurs de la petite enfance qualifiés pourront travailler en français dans toutes les écoles de langue anglaise, et de plus, ces personnes sont souvent bilingues. Ils pourront travailler en anglais pour des employeurs plus généreux du point de vue du salaire et des conditions de travail. Nous savons déjà, par exemple, que les annonces ici à Toronto pour des éducateurs et éducatrices à temps plein qualifiés sont pour 28 \$, 30 \$ ou 32 \$, alors que nous payons nos gens environ 18 \$ à 19 \$. La subvention prévue par le gouvernement est à ce niveau-là.

Nous n'avons qu'une recommandation, mais nous appuyons les recommandations du « Ontario Public School Boards' Association », ainsi que celles de l'Association franco-ontarienne des conseils scolaires catholiques.

Nous anticipons que, dans sa forme actuelle, le projet de loi aura pour impact d'augmenter l'assimilation, comme nos écoles sont surtout régionales et exigent que les élèves prennent l'autobus.

Nous prévoyons que, dans sa forme actuelle, le projet de loi aura pour impact d'accroître les difficultés de recrutement de personnel qualifié. Nous prévoyons la possibilité de perdre des services et des entreprises de langue française. C'est pourquoi nous demandons de la flexibilité.

L'ACÉPO recommande l'ajout d'un paragraphe distinct dans le projet de loi qui autorisera les conseils scolaires de langue française à modifier le programme d'apprentissage des jeunes enfants à temps plein et les programmes prolongés payants qui seront offerts avant et après l'école, pour mieux répondre aux besoins des communautés de langue française vivant en milieu minoritaire.

Le Président (M. Shafiq Qaadri): Merci, madame Pinet. Il reste approximativement une minute et demie pour chaque parti, commençant par M. Lalonde.

M. Jean-Marc Lalonde: Merci, madame Pinet. C'est bien ça, oui?

Le Président (M. Shafiq Qaadri): Pinet.

M. Jean-Marc Lalonde: Pinet. M. Marion est en voyage. Je suis revenu exprès pour assister à votre séance aujourd'hui.

M^{me} Louise Pinet: Merci beaucoup.

M. Jean-Marc Lalonde: J'ai bien écouté votre présentation. Vous parlez du transport, du nombre d'autobus scolaires—non—du nombre d'écoles élémentaires régionales que vous avez. Je sais que le conseil des écoles publiques couvre un très grand territoire. Je regarde dans le Centre-Est; on parle de Trenton aux limites de Glengarry, Prescott et Russell, qui est à une distance je parlerais même d'à peu près 200 à 300 kilomètres.

Mais c'est vrai, lorsqu'on parle des autobus, il faut dire que vous avez certainement une compensation pour le transport en autobus de nos élèves, parce que lorsque

je regarde le coût que vous recevez comparativement à d'autres conseils scolaires, ça varie entre 1 000 \$ et 2 500 \$ par élève. J'ai regardé les statistiques justement hier, en venant par avion; c'est pour ça que je suis tellement au courant que le gouvernement prend en considération le montant d'autobus scolaires que ça prend et le nombre de kilomètres qu'on doit parcourir.

Mais qu'importe, je suis d'accord avec vous qu'on doit s'assurer—

Le Président (M. Shafiq Qaadri): Monsieur Lalonde, je passe la parole à M^{me} Witmer.

Mrs. Elizabeth Witmer: Merci, madame Pinet. I don't have any questions, thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. Le plancher est à vous, monsieur Marchese.

M. Rosario Marchese: Madame Pinet, merci. Votre perspective est très importante. La question que j'ai pour vous est : est-ce que vous avez eu l'occasion de parler avec la ministre ou bien avec d'autres qui travaillent pour elle, pour lui indiquer ces problèmes, et qu'est-ce qu'ils ont dit?

1610

M^{me} Louise Pinet: Nous n'avons pas encore rencontré officiellement la ministre, M^{me} Dombrowsky. Cela aura lieu demain pour notre association. Certainement, ce dossier est à l'ordre du jour. Nous avons certainement parlé au sous-ministre adjoint, M. Grieve, qui est responsable du dossier, et nous lui avons fait part de ce besoin. Il y a une ouverture, certes, mais, en ce moment, cela ne se reflète pas nécessairement dans les communications que nous recevons. Mais je pense qu'il y a une écoute et qu'on se rend bien compte qu'on a besoin de flexibilité pour s'assurer que ça fonctionne.

Dans certaines communautés, on va être en mesure de mettre en œuvre le plan tel quel, le programme comme il est prévu dans la loi. Dans l'autre, ça ne sera pas possible. Dans l'autre, si nous le mettons tel quel, nous allons avoir des classes de maternelle, de jardin, première, deuxième, troisième et quatrième pour arriver à avoir une classe, peut être, de 20 élèves. Alors, c'est très compliqué et complexe. Il nous faut de la flexibilité pour le mettre en œuvre et pour la protection—

Le Président (M. Shafiq Qaadri): Merci, monsieur Marchese, et à vous aussi, madame Pinet, pour votre mémoire et votre contribution aujourd'hui.

ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS

Le Président (M. Shafiq Qaadri): Maintenant, j'invite notre prochain présentateur, M. Mercier, le président de l'Association des enseignantes et des enseignants franco-ontariens, évidemment avec les mêmes règles : 10 minutes au total. S'il vous plaît, commencez.

M. Benoit Mercier: Merci. Bonjour, chers députés. Je suis accompagné aujourd'hui de M^{me} Maureen Davis, qui est responsable du dossier à l'AEFO provinciale.

Donc, mesdames et messieurs, je vous remercie d'avoir accepté d'entendre la présentation de l'Association des enseignantes et des enseignants franco-ontariens, traitant du projet de loi 242.

Au nom des 9 500 membres de l'AEFO, permettez-moi tout d'abord de préciser que l'AEFO voit d'un bon œil la mise en place du programme d'apprentissage des jeunes enfants, offrant aux tout-petits la maternelle et le jardin d'enfants à temps plein, ainsi que l'option d'un programme de jour prolongé. Selon nous, le gouvernement a pris une décision éclairée en choisissant d'investir dans les ressources les plus importantes de notre province : nos enfants. Les enfants seront les grands gagnants de cette décision avant-gardiste, mais nous pensons qu'il y aura aussi des retombées positives pour l'ensemble de la province de l'Ontario. En investissant dans l'éducation des prochaines générations, le gouvernement assure à l'Ontario les ressources nécessaires pour se tailler une place de choix dans l'économie du savoir.

Ceci dit, l'AEFO juge important d'intervenir aujourd'hui devant vous pour faire valoir certaines des préoccupations que soulève pour nous ce projet de loi. Vous retrouverez dans notre mémoire que nous déposons aujourd'hui 26 recommandations qui visent à assurer la mise en œuvre réussie du nouveau programme. Donc, je vous invite à en prendre connaissance.

Dans le peu de temps dont je dispose, j'aimerais soulever quatre principales préoccupations de l'AEFO, soit la taille de classe, la clarification de rôles, le temps de planification et de coordination, et la formation d'une main-d'œuvre qualifiée pour les écoles de langue française.

Donc, pour la communauté franco-ontarienne, nous reconnaissons depuis longtemps la valeur de programmes de maternelle et de jardin à temps plein pour les enfants qui fréquentent les écoles de langue française en milieu minoritaire. Un grand nombre de nos élèves sont issus de familles exogames dans lesquelles l'un des parents ne parle pas le français. Le résultat est le suivant : plusieurs jeunes arrivent dans nos écoles en ayant une connaissance limitée de la langue dans laquelle ils doivent faire leur apprentissage. Les programmes préscolaires sont essentiels pour leur permettre d'acquérir les habiletés langagières nécessaires pour réussir à l'école de langue française et pour renforcer leur identité culturelle, conformément au mandat des écoles de langue française. C'est pourquoi tous les conseils scolaires en province ont mis en œuvre, et certains depuis une quinzaine d'années, des programmes de maternelle et de jardin d'enfants à temps plein, et cela même si ces programmes n'étaient pas financés par le gouvernement.

Ces 15 années d'expérience nous ont beaucoup appris : entre autres, qu'une taille réduite favorise l'acquisition des compétences langagières et une transmission réussie à la première année. Elle permet aussi le dépistage de problèmes d'apprentissage et une intervention précoce de la part du personnel scolaire. En ce moment dans nos écoles, toutes les classes de maternelle et de jardin d'enfants comptent un maximum

de 20 élèves. Cela permet à l'enseignante ou à l'enseignant d'accorder à chaque enfant l'attention individuelle dont il a besoin pendant ces années cruciales pour sa réussite scolaire.

Une plus petite classe permet davantage d'interaction avec chaque enfant. Les enfants ont plus d'occasions de s'exprimer oralement, ce qui est essentiel pour le développement des compétences langagières. Cette pratique a fait ses preuves dans nos écoles, et c'est pourquoi notre première recommandation vise le maintien d'un maximum de 20 élèves par classe. Ajoutons que cette recommandation est aussi basée sur des raisons d'ordre logistique et pédagogique. Dans un grand nombre de nos écoles, les locaux de maternelle et de jardin sont conçus pour une vingtaine d'élèves. Si on augmente la taille de classe, on réduit la possibilité de pleinement utiliser le jeu comme méthode d'apprentissage, et on peut aussi créer un environnement non-sécuritaire pour les tout-petits. Donc encore une fois, à la lumière des pratiques réussies dans nos écoles, l'AEFO insiste sur le maintien d'un maximum de 20 élèves par classe.

Parlons des clarifications de rôles. L'AEFO est d'avis que la formule proposée par le gouvernement, soit de confier la livraison du programme de base à une équipe constituée d'une enseignante ou d'un enseignant et d'une éducatrice ou d'un éducateur de la petite enfance, a le potentiel d'enrichir l'apprentissage et le développement social des jeunes enfants. Les élèves vont bénéficier, sans doute, de l'expertise particulière des deux groupes de professionnels. L'AEFO croit que ses membres seront très ouverts à la collaboration requise pour que le modèle fonctionne bien. Toutefois, pour éviter des conflits potentiels, nous sommes d'avis qu'il faut clarifier les responsabilités respectives de chacun des membres de l'équipe, en particulier en ce qui touche la discipline des élèves et la communication avec les parents, tutrices ou tuteurs.

Le gouvernement a déjà précisé son intention de laisser aux enseignantes et enseignants la responsabilité d'évaluer le rendement des élèves. En ce qui touche la discipline des enfants et la communication avec les parents, l'AEFO recommande que la responsabilité soit partagée entre les deux membres de l'équipe, mais que l'enseignante ou l'enseignant retienne l'autorité ultime sur ces questions. Cela permettrait d'assurer une constance dans la gestion de classe et dans les interventions, tant auprès des élèves que des parents.

À l'heure actuelle, la grande majorité de programmes de maternelle et de jardin dans les écoles de langue française est livrée entièrement par une enseignante ou un enseignant. Toutefois, trois de nos conseils scolaires ont adopté un modèle selon lequel la livraison de ces programmes est partagée entre le personnel enseignant et des éducatrices et éducateurs. Cette expérience a confirmé l'importance d'accorder aux personnes qui doivent travailler auprès des mêmes enfants le temps nécessaire pour planifier le programme, et ensuite coordonner leurs interventions au jour le jour. Autrement, il devient très difficile d'assurer une constance dans l'intervention auprès des enfants.

À titre d'exemple, si un enfant fait une confiance à un des membres de l'équipe sur une question qui expliquerait son comportement à l'école, il est important que l'autre membre de l'équipe soit mis au courant. Si un membre de l'équipe croit qu'il faut utiliser une stratégie particulière avec un élève, il doit pouvoir en discuter avec sa ou son collègue. Donc, vous conviendrez avec moi que de tels échanges ne peuvent se faire en présence d'une vingtaine d'enfants de quatre ou de cinq ans.

Parlons maintenant de la formation des éducatrices et des éducateurs de la petite enfance. Contrairement aux écoles de langue anglaise, les écoles de langue française souffrent toujours d'une pénurie de personnel enseignant qualifié, en particulier dans le sud de la province. À plusieurs endroits, les conseils scolaires de langue française ont été contraints d'embaucher des personnes non-qualifiées pour des postes d'enseignement. L'AEFO croit qu'il va s'avérer tout aussi difficile de recruter suffisamment d'éducatrices ou d'éducateurs pour répondre aux besoins du nouveau programme, et cela dans la plupart des régions de la province. Nous pensons qu'il est important aussi de ne pas porter atteinte à la qualité des programmes offerts dans les garderies de langue française en drainant leurs ressources humaines. Nous recommandons donc que le ministère de l'Éducation travaille de concert avec le ministère de la Formation et des Collèges et Universités pour mettre en place le programme de formation nécessaire pour répondre aux besoins du personnel qualifié que va créer ce nouveau programme.

Il faut agir vite afin de permettre au programme d'apprentissage des jeunes enfants de démarrer sur un bon pied.

Donc, en conclusion, comme je vous l'ai indiqué, notre mémoire contient plusieurs autres recommandations sur des questions telles que les rôles respectifs des divers intervenants en ce qui touche le programme de jour prolongé, la délégation des pouvoirs de la direction d'école, ou encore, le programme d'insertion professionnelle des éducatrices et éducateurs de la petite enfance.

1620

Nous demandons aussi que, pour assurer une mise en œuvre harmonieuse, l'AEFO soit reconnue comme l'agent négociateur des éducatrices et éducateurs affectés à ce programme. L'AEFO demande donc au comité permanent de tenir compte de ces recommandations et d'amender le projet de loi 242 pour assurer la réussite d'un programme qui peut s'avérer très bénéfique pour les élèves de l'Ontario.

C'est avec plaisir que je répondrai à vos questions.

Le Président (M. Shafiq Qaadri) : Merci, monsieur Mercier. Twenty seconds per side. Madame Witmer.

Mrs. Elizabeth Witmer : No questions. Merci.

Le Président (M. Shafiq Qaadri) : Monsieur Marchese.

M. Rosario Marchese : Oui, vous avez soulevé beaucoup de questions. Ce qui me concerne, c'est le maximum, parce qu'on ne propose pas de maximum. Vous dites que ça devrait être 20—pas 26?

M. Benoit Mercier : Tout à fait.

Le Président (M. Shafiq Qaadri) : Merci, monsieur Marchese. Au gouvernement. Monsieur Ramal.

M. Khalil Ramal : Merci beaucoup pour votre présentation. Notre gouvernement va travailler avec vous et avec chaque organisation de l'Ontario. Merci.

Le Président (M. Shafiq Qaadri) : Merci, monsieur Ramal, et à vous aussi, monsieur Mercier et votre collègue M^{me} Davis, pour votre présentation en représentant l'Association des enseignantes et des enseignants franco-ontariens.

ASSOCIATION FRANCO-ONTARIENNE DES CONSEILS SCOLAIRES CATHOLIQUES

Le Président (M. Shafiq Qaadri) : Maintenant, j'invite notre prochain présentateur, l'Association franco-ontarienne des conseils scolaires catholiques : M^{me} Petit-Pas et M^{me} Drouin. Vous avez vu les règles. Bienvenue. S'il vous plaît, commencez.

M^{me} Dorothée Petit-Pas : Bonjour à vous, chers membres du Comité permanent de la politique social, et merci d'avoir accepté d'entendre l'Association franco-ontarienne des conseils scolaires catholiques, au sujet du projet de loi 242.

L'AFOCSC regroupe huit des 12 conseils scolaires de la langue française de l'Ontario, et accueille environ 70 000 élèves dans ses écoles élémentaires et secondaires. Par rapport à la portée générale—

Le Président (M. Shafiq Qaadri) : Pardonnez-moi, madame. S'il vous plaît, identifiez votre collègue et vous-même pour Hansard, ici.

M. Rosario Marchese : Votre nom.

M^{me} Dorothée Petit-Pas : Il avait commencé tout de suite. OK. Dorothée Petit-Pas, présidente de l'association, ainsi que Carole Drouin, directrice générale.

Le Président (M. Shafiq Qaadri) : Merci.

M^{me} Dorothée Petit-Pas : Est-ce qu'il faut que je recommence, là, dès le début?

Le Président (M. Shafiq Qaadri) : S'il vous plaît.

M^{me} Dorothée Petit-Pas : C'est une pratique? Merci.

Bonjour à vous, chers membres du Comité permanent de la politique social, et merci d'avoir accepté d'entendre l'Association franco-ontarienne des conseils scolaires catholiques, au sujet du projet de loi 242.

L'AFOCSC regroupe huit des 12 conseils scolaires de la langue française de l'Ontario, et accueille environ 70 000 élèves dans ses écoles élémentaires et secondaires. Par rapport à la portée générale et à la mise en œuvre du programme d'apprentissage pour les jeunes élèves, il est de notre devoir de lever aujourd'hui des drapeaux rouges, puisque ce programme risque de menacer le développement et la vitalité des communautés francophones de langue française en Ontario.

À la suite de la création des conseils scolaires de langue française en 1998, nous avons investi beaucoup d'énergie et de ressources pour faire la démonstration des coûts réels de prestation d'une éducation de qualité en

langue française, dans le but d'obtenir une certaine parité au niveau du financement. Il est désormais convenu que la livraison de services d'éducation en langue française comparables à ceux offerts dans la langue de la majorité coûte plus cher.

Nous avons institué dans nos écoles des services de maternelle et jardin à temps plein il y a 10 ans, afin de doter nos élèves d'une capacité linguistique qui leur permet de réussir dans un milieu majoritairement anglophone. Nous sommes convaincus que nous avons fait les bons choix pour assurer la survie du système scolaire de la minorité.

Le déploiement du programme de maternelle et jardin à temps plein en province représente une menace pour les écoles de langue française qui, de par leur nombre restreint, n'arrivent pas à rivaliser avec le nombre d'écoles de la majorité. Les recherches démontrent toutes que le premier facteur d'attraction pour un parent qui choisit une école pour son enfant demeure l'accès, soit la proximité de cette école au domicile familial.

Encore aujourd'hui, et ce malgré le succès des écoles catholiques de langue française au testing de l'OQRE, 45 % des parents qui ont le droit d'envoyer leur enfant à l'école de langue française optent pour l'école de la majorité.

Nous craignons, évidemment, que la perte d'un élément de compétitivité important, soit l'exclusivité des services de maternelle et de jardin à temps plein, affecte encore davantage la capacité de nos conseils de langue française à attirer la clientèle des parents francophones. Il est important pour nous de vous alerter de notre grande inquiétude à ce sujet. Il serait regrettable pour un gouvernement qui a investi autant dans les systèmes scolaires de langue française de leur causer préjudice par une initiative qui cherche à rehausser la réussite des élèves et la confiance du public.

Les conseils catholiques de langue française continuent à collaborer aux consultations et aux comités de travail afin de proposer des approches et des stratégies visant à éviter l'effritement graduel de la clientèle des écoles de langue française. Nous sommes à la recherche de solutions qui nous permettraient de résoudre ce dilemme.

Il est tout de même inquiétant de constater que, malgré notre participation active lors des consultations menées par le D^r Pascal, aucune de nos recommandations n'a été retenue. D'ailleurs, étant donné que le modèle de mise en œuvre avancé dans le projet de loi 242 ne prend pas en considération ce qui est en place depuis 10 ans dans les écoles de langue française de la province, il met en péril notre système, en limitant les partenariats. Il risque également de dilapider les ressources humaines déjà maigres en termes d'éducatrices spécialisées capables de travailler en français.

Nous recommandons que le modèle soit plus flexible, qu'il respecte les différents modes de prestation de la maternelle et du jardin d'enfants à temps plein qui existent dans nos milieux et qu'il permette l'offre de programmes et de services sur mesure répondant aux réalités et aux besoins de chaque communauté.

Nous recommandons que le projet de loi ne limite pas les ententes avec les fournisseurs afin que nos conseils puissent continuer à développer des partenariats dans leurs communautés pour offrir des services de garde dans le cadre des journées prolongées à compter de 2010-2011 et pour les années à venir. Depuis 10 ans, les conseils scolaires de langue française ont conclu des ententes et établi des partenariats avec diverses agences communautaires de langue française qui livrent les services de garderie et des programmes avant et après l'école pour les enfants de quatre à 12 ans.

Selon le modèle présenté dans le projet de loi 242, les éducatrices, employées du conseil, s'occuperaient des enfants de quatre et cinq ans avant et après l'école. Ceci veut dire une perte de revenus pour les pourvoyeurs de services de garde de nos communautés qui n'auraient plus la garde des enfants de quatre et cinq ans. On mettrait alors en jeu la viabilité des programmes de garderie. Or, puisque plusieurs de ces agences et organismes communautaires offrent des programmes culturels, sportifs et artistiques en français au sein de nos communautés, cette programmation est donc en péril. Ceci aurait un impact immédiat sur nos communautés. Les partenariats que nous avons forgés avec nos garderies au cours des 10 dernières années constituent des alliances vitales qui contribuent chaque jour au bien-être de nos enfants et au développement de la langue française.

Voici d'autres préoccupations par rapport aux ressources humaines et à la programmation.

Les conseils de langue anglaise vont offrir des programmes PAJE dans plusieurs écoles et, puisqu'il y a une pénurie d'éducatrices de la petite enfance, nous estimons que le personnel des garderies situées dans nos écoles, actuellement payé en moyenne 18 \$ l'heure par les agences communautaires, quittera ces garderies pour travailler pour les conseils anglophones qui seront en mesure d'offrir, grâce au financement octroyé par le ministère de l'Éducation, un salaire et des avantages sociaux plus généreux. Nos conseils ont d'ailleurs déjà signalé une pénurie d'éducatrices certifiées.

La programmation actuelle mise en œuvre au sein des 12 conseils de langue française a été conçue afin de répondre aux besoins particuliers des élèves qui fréquentent les écoles de langue française; est-ce que la nouvelle programmation tiendra compte des stratégies de littératie particulières aux francophones?

1630

L'approche déconstruite de mise en œuvre appliquée au programme PAJE ne permet pas aux experts financiers des conseils de langue française de faire des analyses à long terme de l'impact financier sur les conseils. Comme le financement pour les groupes francophones et anglophones semble être le même, nous sommes inquiets du fait que nos conseils francophones auront à absorber des coûts dépassant leurs capacités.

Nous estimons que le programme d'apprentissage pour les jeunes élèves est bon pour tous les enfants de la province. Nous parlons d'expérience puisque nous

l'avons mis en place il y a 10 ans déjà. Ceci étant dit, le modèle de mise en œuvre proposé ne prend pas en considération ce qui existe déjà dans les systèmes de langue française, et le déploiement du modèle tel qu'il est conçu actuellement à la grandeur de la province n'aide en rien à freiner l'assimilation que nous combattons et risque d'étouffer les systèmes de langue française.

Nous demeurons inquiets face au projet de loi 242 et demandons que le modèle de mise en œuvre soit revu à la lumière des recommandations faites par les conseils catholiques de langue française et avec un plus grand respect pour la place des avancées et des réussites de ces derniers.

Nous appuyons la recommandation faite par l'ACÉPO, qui suggère un énoncé général reconnaissant la minorité de la langue française en Ontario et les exceptions que la ministre doit faire afin de répondre à ces besoins particuliers et en assurer le développement.

Merci pour votre attention et bonne fin d'audience.

Le Président (M. Shafiq Qaadri): Je vous remercie, madame Petit-Pas, et votre collègue M^{me} Drouin, pour vos remarques. Vous avez pris exactement 10 minutes pour votre représentation de l'Association franco-ontarienne des conseils scolaires catholiques.

CENTRE ÉDUCATIF LES PETITS TRÉSORS

Le Président (M. Shafiq Qaadri): Maintenant, j'invite M^{me} Kelly, notre prochaine présentatrice, représentant le Centre éducatif Les Petits Trésors. Bienvenue, madame Kelly. S'il vous plaît, commencez.

M^{me} Nancy Kelly: Bonjour. Mon nom est Nancy Kelly. Je suis la directrice du Centre éducatif Les Petits Trésors, qui est une corporation à but non lucratif que j'ai créée il y a cinq années pour offrir des services de garde agréés préscolaires et parascolaires dans trois écoles de la région de Prescott-Russell à l'est d'Ottawa. J'ai démarré cette entreprise car je voyais que nos petits villages avaient besoin de services agréés et que les enfants du milieu rural avaient aussi le droit de recevoir ces services.

Depuis cinq années, nous travaillons étroitement avec le Conseil scolaire de district catholique de l'Est ontarien pour offrir le volet petite enfance en alternance avec la maternelle. Ce programme, que nous appelons « volet petite enfance », est très apprécié par les parents, et nous, en tant que fournisseur de services de garde, travaillons aussi très fort à offrir le mieux pour les enfants de quatre ans.

De plus, le Centre éducatif Les Petits Trésors est responsable de programmes avant et après l'école, ou comme nous l'appelons, la journée prolongée, dans trois écoles francophones de Wendover, Alfred et Plantagenet. Avec ces programmes, nous offrons déjà ce que le gouvernement provincial veut voir, soit une transition transparente. Les enfants vont du programme parascolaire le matin au volet petite enfance durant la journée et retournent au service parascolaire dans la même école et souvent avec le même personnel. Nous travaillons

beaucoup avec nos éducatrices en leur donnant la formation et les outils de travail qui permettent de mettre en valeur leur travail avec les enfants. Nous demandons que le projet de loi 242 permette aux fournisseurs de services de garde de continuer à offrir ces programmes pour les conseils scolaires de l'Ontario.

Mais ce que je vous demande sincèrement aujourd'hui est que le Centre éducatif Les Petits Trésors puisse continuer à offrir le service de garde parascolaire—journée prolongée—dans les écoles de l'Ontario. Le retrait de ces services m'apporterait une grande tristesse car il y aurait vraisemblablement des mises à pied et les frais de garde du parascolaire monteraient de plus de 75 % sous la tutelle des conseils scolaires de l'Ontario. Les parents ne sont pas en mesure d'absorber ces hausses de coûts, surtout avec le coût de la vie qui monte continuellement et la taxe harmonisée qui sera en vigueur dans les prochains mois. De plus, la perte de ces programmes parascolaires ferait monter les prix de garderies préscolaires de plus de 25 %, ce qui mettrait en jeu la survie même du Centre éducatif Les Petits Trésors.

Je vous demande donc de modifier la loi pour permettre aux fournisseurs de services de garde de continuer à offrir les programmes parascolaires, ou journées prolongées, volet petite enfance, dans les écoles de l'Ontario, et ce pour les enfants de quatre à 12 ans.

As mentioned earlier, I stand here to ask you that Bill 242 not be adopted as written, and that partnerships with licensed child care centres are allowed to offer the provincial government's early learning program.

The impact of this bill as written will negate five years of hard work to bring together quality programs for the Centre éducatif Les Petits Trésors.

We've been offering the before- and after-school programs in local schools for almost five years now. We've worked tirelessly together with our local school board to develop a strong partnership and offer the programs at reasonable rates for parents, all the while maintaining a high level of quality for the children. A continued partnership with local school boards will allow us to offer preschool programs at reasonable rates along with continuing to offer the seamless transition for which we also aim for our children. The impact of this bill is enormous for many small, non-profit organizations such as the Centre éducatif Les Petits Trésors which operate child care centres in rural communities like Prescott-Russell.

The preamble of the act talks to the importance of strong local partnerships in the eventual success of the full-day early learning program. So why are we taking away the Centre éducatif Les Petits Trésors's strong partnership with the eastern Ontario French Catholic school board?

The argument against providing the extended day programs in partnership with community-based organizations is based on the intent to provide a fully integrated program in which children experience fewer transitions and fewer staff changes. Many schools in the Prescott-Russell and Ottawa region already partner with

community-based organizations like the Centre éducatif Les Petits Trésors to in fact offer the seamless transition between programs. So again I ask, why are we dismantling a program that is not disruptive and is fully integrated?

Over the last five years, we've worked countless hours to create this centre for the children and families of Prescott-Russell, and I find it disheartening that all this will be taking away from the Centre éducatif Les Petits Trésors. The key to success in small, and large, communities is partnership and combining programs to ensure operations are efficient and effective, so that parents are charged reasonable rates for child care and we create and maintain jobs for people in these communities.

The combination of preschool daycare, ready-to-learn—volet petite enfance—and before- and after-school programs allows this to happen in many communities. The centre already works with school boards in ensuring the ready-to-learn program is a match to the kindergarten program by organizing joint training sessions and holding combined meetings between the ECEs, daycare management and school board representatives during the year.

We also work in a cost-sharing mode to ensure that our before- and after-school programs benefit the schools, the parents and the children we work with. The before- and after-school program allows for the centre to maintain a sound financial system, as this program covers the cost for the low ratios in preschool daycare.

Also, based on some documents I have reviewed from the Ministry of Education, the cost of before- and after-school programs in my communities will increase by 75% for parents. I can only fear that we will see more children on the streets waiting for mom and dad to arrive because the parents cannot afford proper care.

By losing these programs, the centre will have to increase daycare fees by a minimum of 25%, thus jeopardizing the future of Centre éducatif Les Petits Trésors and creating a significant loss of employment in our rural communities.

In today's day and age, when it is so important to work in partnership in order to maximize each dollar and ensure a sound future, I ask that you reconsider Bill 242 as it is proposed and allow school boards to continue their partnerships with licensed child care centres. We support the government's early learning program; however, we already have a successful and highly effective program in place, so why change what is working for the children in our schools?

Please consider the reality of rural communities where partnerships with licensed child care centres are important and allow these communities to continue to thrive and to keep jobs and people working.

The Chair (Mr. Shafiq Qaadri): Merci, madame Kelly. There's about a minute per side, beginning with the government.

M. Jean-Marc Lalonde: Tout d'abord, madame Kelly, je dois vous féliciter.

M^{me} Nancy Kelly: Merci.

M. Jean-Marc Lalonde: Je n'ai jamais eu la chance de vous rencontrer, mais je me rappelle qu'on s'est parlé au téléphone à plusieurs reprises.

M^{me} Nancy Kelly: Oui, au tout début.

M. Jean-Marc Lalonde: Je peux dire que vous avez travaillé très, très fort, et puis je peux dire que je reçois beaucoup d'appels : les gens sont très satisfaits de votre service. Espérons—actuellement, c'est la raison pour laquelle on a des audiences publiques, afin d'être à l'écoute des gens : ce qui les concerne, l'impact que le projet de loi 242 va avoir. On attend les recommandations vraiment qui vont ressortir de cette audience.

M^{me} Nancy Kelly: Merci.

Le Président (M. Shafiq Qaadri): Merci, Monsieur Lalonde. Madame Witmer?

Mrs. Elizabeth Witmer: I just thank you. I don't have any questions.

The Chair (Mr. Shafiq Qaadri): Thank you. Monsieur Marchese?

1640

Mr. Rosario Marchese: I was going to ask you in French, but given the fact that many of the audience folks don't speak it, I wanted to make some points. You and the other previous speakers have made some important points. The challenges to the French-speaking parents are greater and they need to be addressed. They weren't addressed by Dr. Pascal—that was the remark by the previous speaker—and unless the government listens to the concerns you're raising, it's going to be really, really problematic.

Flexibility has to be built in, and that's what all the speakers talked about yesterday when they came forward. It's not about the delivery of your good programs; it's about the potential loss of the good programs that you provide. This is what this is about and that's why you're here.

Please remind the minister, who said today, in response to my question, that she's listening to what all of you are saying—keep pressing her daily, because I'm worried that we may not get some of the flexibility and the transitional funding that many of you are looking for to keep you afloat. Thank you.

Le Président (M. Shafiq Qaadri): Merci, monsieur Marchese, et à vous, madame Kelly, pour votre mémoire et présentation pour le Centre éducatif Les Petits Trésors.

REGROUPEMENT DES SERVICES ÉDUCATIFS À L'ENFANCE D'OTTAWA MEILLEUR DÉPART

Le Président (M. Shafiq Qaadri): Maintenant, j'invite nos prochaines présentatrices, M^{me} Chartrand et M^{me} Raymond, représentant le Regroupement des services éducatifs à l'enfance d'Ottawa et le comité francophone de Meilleur départ. Bienvenue. Vous avez des cadeaux pour nous, aussi?

M^{me} Jocelyne Raymond: J'ai une petite fleur.

Le Président (M. Shafiq Qaadri): OK. S'il vous plaît, commencez.

M^{me} Jocelyne Raymond: Alors, bonjour. Mon nom est Jocelyne Raymond et je suis en compagnie de Mireille Chartrand. Nous sommes toutes les deux coprésidentes, à la fois, du Regroupement des services éducatifs à l'enfance d'Ottawa, du comité permanent des services éducatifs également, et de la table de planification francophone de Meilleur départ d'Ottawa.

Merci d'avoir accepté de nous rencontrer. En cette fin d'après-midi, nous souhaitons vous amener dans notre monde—c'est pour ça que j'ai apporté ma petite fleur—un monde d'enfant et de famille. On veut aussi vous faire voyager un peu. On vient d'aller dans la région de Prescott–Russell; nous, on veut vous apporter à Ottawa. J'aurais bien aimé vous emmener en Orient ou sur la planète Avatar, mais compte tenu que ce n'est pas le propos de notre présentation, on va vous ramener dans la région d'Ottawa.

Nous avons parcouru une grande distance pour venir vous rencontrer, parce que c'est extrêmement important pour nous. C'est aussi important pour des milliers d'enfants et de parents francophones provenant de familles souches et de familles de plus en plus immigrantes, et c'est à leur nom que nous revendiquons.

Alors, sans plus tarder, je vais passer la parole à ma collègue Mireille, qui va vous expliquer pourquoi c'est si important pour nous de vous livrer le message que nous avons à vous livrer.

M^{me} Mireille Chartrand: Le Regroupement des services éducatifs à l'enfance d'Ottawa, le comité permanent francophone, et la Table de planification francophone appuient l'initiative du programme d'apprentissage pour jeunes enfants annoncé par le gouvernement de l'Ontario, et souhaitent maintenir sa mise en œuvre.

Par souci d'offrir à tous les enfants, de la naissance à 12 ans, des services de garde et d'apprentissage de qualité qui favoriseront leur plein épanouissement et qui sauront répondre aux besoins des familles, nous désirons toutefois attirer votre attention sur les enjeux importants pour la communauté francophone de la mise en œuvre du PAJE telle que proposée par le projet de loi 242.

À la lumière de notre expertise collective et de nos expériences vécues depuis plus de 10 ans dans l'ordre de la maternelle à temps plein au sein des écoles francophones, nous allons également vous soumettre un amendement au projet de loi 242.

Le modèle actuel de livraison de services de la maternelle à temps plein dans les écoles francophones d'Ottawa est livré présentement en une demi-journée qu'on appelle volet pédagogique, avec un enseignant, et l'autre demi-journée, appelée volet ludique, préconisant l'apprentissage par le jeu, avec deux éducateurs formés en petite enfance, pour un maximum de 20 enfants.

Une entente d'achat de services est en place entre les conseils scolaires et les services de garde éducatifs, quant aux services fournis par les éducateurs. Ce sont les services de garde éducatifs qui sont responsables de l'embauche, l'encadrement, l'évaluation et la rémunération des éducateurs, ainsi que de la mise en œuvre du volet ludique. Ce modèle reconnaît la complémentarité des approches enseignant-éducateur.

Le programme de jour prolongé, quant à lui, avec frais, est offert aussi par les services de garde éducatifs et ce, 12 mois par année, ce qui comprend les services avant et après l'école, pendant les journées pédagogiques, les congés scolaires et la période estivale.

La grande majorité des services éducatifs francophones offrent leurs services au sein même des écoles en louant des locaux auprès des conseils scolaires. Dotés d'éducateurs en petite enfance qualifiés et compétents, les services de garde éducatifs ont une infrastructure et une expertise qui leur permettent d'offrir aux enfants francophones de 18 mois à 12 ans, et à leur famille, un continuum de services. C'est d'ailleurs ce continuum de services qui permet aux services de garde éducatifs d'avoir la masse critique nécessaire pour assurer leur viabilité financière.

Le modèle proposé par le projet de loi 242, qui prévoit un enseignant et un éducateur pour une moyenne de 26 enfants, ainsi que la livraison des services de jour prolongé par les conseils scolaires, créera des enjeux importants pour la communauté francophone d'Ottawa. On prévoit, entre autres :

- une hausse des frais de garde pour les services préscolaires et les services parascolaires pour les enfants de six à 12 ans, conséquence directe de la diminution du nombre d'enfants desservis, ne permettant plus, dans certains cas, d'avoir la masse critique nécessaire pour maintenir des frais de garde abordables pour les parents;

- une hausse des frais de garde pour la journée prolongée, si elle est offerte par les conseils scolaires, compte tenu des conditions d'emploi améliorées qui seront proposées aux éducateurs, mais surtout de la structure administrative plus complexe et onéreuse des conseils;

- une diminution du nombre d'enfants desservis dans le système de garde agréé : suite à l'augmentation des frais de garde, certains parents non-subventionnés ne seront plus en mesure de payer les frais de garde rendus trop élevés pour eux, et moins de parents auront accès à des places subventionnées, car le nombre de places disponibles sera moins élevé, compte tenu de l'augmentation des frais de garde pour tous les groupes d'âge;

- la fermeture de certains services de garde éducatifs lorsque la perte des groupes d'âge de quatre et de cinq ans ne leur permettrait plus d'avoir la masse critique nécessaire pour continuer à offrir des services. Il est impossible, par exemple, de payer un superviseur de services de garde si le nombre d'enfants desservis n'est pas suffisamment élevé;

- une augmentation des listes d'attente, déjà très longues à Ottawa, pour l'obtention d'une place subventionnée dans un service de garde agréé, compte tenu de la diminution des nombres de places et de la fermeture de certains services;

- difficulté de recrutement d'éducateurs qualifiés pour les services de garde agréés, conséquence de la pénurie d'éducateurs suite à la mise en œuvre du PAJE et aux écarts dans les conditions de travail, telles que le salaire et les avantages sociaux, entre les éducateurs

embauchés par les conseils et ceux embauchés par les services de garde. Les horaires de travail à temps partiel ou un quart de travail fractionné seront particulièrement difficiles, voire impossibles à combler par du personnel qualifié;

—difficulté d'aménager des locaux propres aux enfants de quatre et de cinq ans, des milieux propices à l'apprentissage, compte tenu de l'augmentation du nombre de 20 à 25 enfants par classe;

—enfin, un risque accru d'assimilation des jeunes enfants francophones, particulièrement ceux issus de familles exogames, qui fréquenteront les programmes d'immersion française qui sont de plus en plus nombreux au sein des écoles anglophones d'Ottawa.

La communauté s'inquiète également de voir que le projet de loi 242 donne la possibilité au conseil anglophone d'offrir des programmes de jour prolongé en français. Les recherches démontrent, en effet, que c'est la fréquentation des écoles de langue française qui assure la sauvegarde de la culture et de la langue française. Les programmes d'immersion pour les enfants issus de familles francophones ou exogames deviennent une source d'assimilation.

Donc, dans l'intérêt de tous les enfants de l'Ontario, le gouvernement se doit de chercher la méthode optimale d'exécuter et d'atteindre ses objectifs sous l'égide de la loi de l'éducation. La mise en œuvre du PAJE doit se faire sans diminuer l'accessibilité ou diluer la qualité des services offerts actuellement aux enfants des autres groupes d'âge par les services de garde éducatifs.

Dans le but de continuer à offrir aux enfants de la naissance à 12 ans une gamme de services de qualité pouvant répondre aux besoins variés des familles, il est donc essentiel de maintenir la viabilité des services de garde existants. Pour ce faire, nous préconisons—nous aussi, parce qu'on a entendu plusieurs présentateurs qui vous demandent, en fait, la même chose—une approche accordant un maximum de flexibilité aux partenaires existants, soit les conseils scolaires et les services de garde, quant à la mise en œuvre du PAJE.

Donc, le regroupement, le comité permanent francophone et la table de planification recommandent l'ajout explicite suivant au projet de loi 242 en ce qui a trait aux modifications à la Loi sur l'éducation, et d'une façon connexe à la Loi sur les garderies, donc le pouvoir de conclure des ententes : un conseil scolaire peut conclure une entente de service avec un fournisseur de services de garde agréé pour l'embauche, l'encadrement, l'évaluation et la rémunération des postes d'éducateurs qui travaillent en salle de classe avec les enseignants et pour l'ordre des programmes du jour prolongé au sein des écoles. Évidemment, les changements devront être effectués à chacun des clauses pour refléter cet ajout et permettre son application.

M^{me} Jocelyne Raymond: Alors, nous croyons fermement que cet amendement s'inscrit dans la vision du ministère de l'Éducation et permettra d'atteindre les objectifs du PAJE, tout en répondant au besoin de flexibilité exprimé par les conseils scolaires francophones et les services de garde éducatifs.

1650

Je dois ajouter également que nos collègues anglophones d'Ottawa soutiennent notre demande d'amendement au projet de loi 242. Je fais référence ici au « child care council » et au « Best Start steering committee », qui ont d'ailleurs envoyé une lettre d'appui à cet effet.

La flexibilité demandée est essentielle pour que les familles francophones puissent continuer d'accéder à des services de qualité pour leurs enfants de la naissance à 12 ans—des services de garde qui sont la pierre angulaire à l'épanouissement de toute la société.

Je vous remercie beaucoup de votre attention.

Le Président (M. Shafiq Qaadri): Merci. Nous avons moins de 20 secondes pour chaque parti, 20 seconds a side. Monsieur Arnott.

Mr. Ted Arnott: Merci beaucoup. Thank you very much for your presentation. On behalf of our party, we appreciate the work that you've done to help us to improve Bill 242. We express our thanks.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

M. Rosario Marchese: Merci pour la présentation. Les défis sont beaucoup et énormes. Il faut continuer à pousser nos amis M. Jean-Marc Lalonde, M. Kevin Flynn, la ministre et tous les libéraux afin d'arriver à résoudre les problèmes que vous avez énoncés. Merci.

Le Président (M. Shafiq Qaadri): Au gouvernement : monsieur Lalonde?

M. Jean-Marc Lalonde: Encore une fois, merci à vous deux pour votre présentation. Vous avez bel et bien mentionné que vous allez soumettre un amendement. C'est la raison d'être de nos sessions d'information ou des audiences publiques : afin de recevoir les commentaires avant de procéder à la troisième lecture.

Le Président (M. Shafiq Qaadri): Merci, monsieur Lalonde, et merci, mesdames Chartrand et Raymond, pour votre mémoire et présentation pour le Regroupement des services éducatifs à l'enfance d'Ottawa.

ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): We are now inviting our next presenters. We're a little bit early. I'm asking if Madame Peroni of the Ontario Catholic School Trustees' Association has arrived? If they have arrived, they are most welcome to please come forward. We're about 20 minutes ahead of schedule; we like to run an efficient government.

Ms. Paula Peroni: Can we tag that onto my presentation? Or just a few minutes of it?

The Chair (Mr. Shafiq Qaadri): We'll have to have all-committee approval for that.

Please do identify yourself and your colleague. I invite you to begin now.

Ms. Paula Peroni: Good evening, ladies and gentlemen. My name is Paula Peroni and I'm the president of the Ontario Catholic School Trustees' Association. With me are, to my left, Nancy Kirby, our vice-president; and

to my right, Carole Devine, who has the weight of the legislation and finance portfolio on her little shoulders.

The early learning program is a very positive initiative that the Catholic school boards of Ontario support fully. However, it constitutes a major and complex structural change to education in Ontario. It must be rolled out in a manner that fully respects and preserves the distinctive nature, mandate and rights of Ontario's four publicly funded school systems. It requires the equitable distribution of resources, and it is essential that no aspect of the ELP provide any one system with a competitive advantage over another. When I hear words like "competitive advantage" or "competitive edge" being used by boards, that is one thing, but when I hear these same words being bandied around by ministry staff, that is very disconcerting.

Ms. Nancy Kirby: Subsection 2(2), paragraph 10.1 of the bill authorizes the minister to grant a letter of permission to enable a person who is not a qualified early childhood educator to assume a position designated by a board as requiring an ECE for a period of one year. OCSTA is very concerned that the phase-in timetable for full-day learning may outpace the availability of well-trained ECEs.

These individuals will be playing a central role in the education of our youngest children in the earliest days of a new and, as yet, untested program. It is essential that ECEs, like all staff, come into our schools with the appropriate professional qualifications. In addition, Catholic school boards will be seeking ECEs who share our faith, can transmit to our students its teachings and can model its values.

Similarly, French-language schools will require ECEs fluent in French and knowledgeable about our francophone culture. Therefore, OCSTA recommends that the government take the steps necessary to ensure a sufficient number of qualified ECEs at each stage of implementation.

Section 170.3 of the bill deals with teachers' assistants. It enables cabinet to make regulations governing duties and the minimum qualifications of persons assigned to assist teachers and ECEs. There is no doubt that it will take some time for teachers, teachers' assistants and ECEs to develop effective working models or, as we say, best practices. OCSTA therefore recommends that school boards be consulted in the drafting of regulations regarding teachers' assistants, and that such drafting be delayed until at least a year after the ELP begins in order to provide a better understanding of an optimal working relationship amongst these three groups.

Ms. Paula Peroni: As is the case with all sections of the current Education Act, the major part of Bill 242 will be subject to the protections for constitutional and charter rights included in the existing subsections (4) and (4.1) of section 1 of the act. These subsections state that the "act does not adversely affect any right or privilege guaranteed by section 93 of the Constitution Act, 1867 or by section 23 of the Canadian Charter of Rights and Freedoms."

They also prescribe that: "Every authority given by this act, including but not limited to every authority to make a regulation, decision or order and every authority to issue a directive or guideline, shall be exercised in a manner consistent with and respectful of the rights and privileges guaranteed by the Constitution and by the Canadian Charter of Rights and Freedoms."

OCSTA is greatly concerned, however, about the impact of section 260.8 of the new part IX.1 that Bill 242 would add to the Education Act. Section 260.8 states:

"260.8(1) The Lieutenant Governor in Council may make regulations respecting transitional matters related to the implementation of this part." and

"(2) In the event of a conflict, a regulation made under subsection (1) prevails over provisions of an act or regulation that are administered by the minister."

If a regulation made under subsection 260.8(1) "prevails over provisions of an act or regulation that are administered by the minister," this section contemplates that such a regulation is intended to prevail over the remainder of the Education Act, including those sections that preserve denominational rights protected by the Constitution. This is absolutely unacceptable.

We assume that the real intention of the legislation is to have all matters in Bill 242 subject to the rights and privileges guaranteed by the Constitution Act and the Canadian Charter of Rights and Freedoms. In our view, however, the plain meaning of the section conveys a legislative intention that the regulations should rank superior to such denominational and linguistic rights.

OCSTA therefore must insist that section 260.8 of Bill 242 be eliminated, or, as an alternative, that the language of section 260.8 be amended to ensure that denominational and linguistic rights are respected in all cases.

Ms. Nancy Kirby: OCSTA has several concerns about the provision and operation of the extended day component of the ELP by school boards. Extended day programs are not currently part of the core business of school boards nor are they a current area of expertise among board staff. The implementation of board-run extended day programs will require new training, the creation of new policies and procedures, as well as the development of new administrative support structures. Staffing, economic and liability consequences will also be significant, to say nothing of the related costs.

Several school boards are currently involved in very successful partnerships with community organizations that operate extended day programs, as you've heard from earlier speakers. It would be most unfortunate to break these ties between schools and community resources that are currently serving students and their families so well. It could have a very detrimental effect on the community resources in smaller municipalities in Ontario.

Because of the administration, staffing, operations and program costs that would have to be incorporated into fees charged by school boards, it is unlikely that boards will be able to offer extended day programs at fees as low as those currently being offered by third party operators.

Community organizations already have in place the administrative infrastructure and expertise required to offer such programs, and thus would be able to charge lower fees.

OCSTA recommends that section 259(1) of Bill 242 be amended to permit school boards to contract with alternative community resources for the delivery of the extended day program provided those programs support the core principles of the ELP.

In addition, we recommend that section 259(1) be amended to allow a school board that is offering its own extended day programs a period of up to three years for full implementation.

OCSTA and our member boards are very concerned about the many additional responsibilities and accountabilities that all aspects of the early learning program will place on school principals and other board administrators. Ironically, all of these responsibilities are being added to the role of administrators in a year in which a reduction in funding for administration and governance is to occur, and at a time when administrators are already stretched to the limit.

1700

We know that the GSNs are being announced this Friday. However, OCSTA recommends that the significant increase in administrative workload in connection with the implementation of the new ELP be recognized in the allocation for administration in the 2010-11 GSN.

Ms. Paula Peroni: The early learning program is a complex initiative that will impact every area of school board operations. Beyond the issues addressed in Bill 242, school boards are particularly concerned about whether ministry allocations will be adequate to cover the actual costs of the ELP. Inevitably, there will be pay equity issues, as school boards employing ECEs already are paying in excess of the stated provincial benchmark of \$19.48 an hour. No provision has been made for start-up costs, the magnitude of capital spending is as yet unknown but is undoubtedly substantial, and young students with special needs will require additional costly assistance. So it is essential that the ministry allocate adequate funding to cover the actual costs borne by school boards in implementing the early learning program.

Catholic school boards, as always, will continue to make every effort to work with the ministry and our education partners to ensure a smooth implementation of the ELP for our students, our families and our schools. We look forward to ongoing opportunities to work with ministry officials to address the many outstanding challenges before us today.

I'm going to thank you for allowing us to present to you today, and we certainly welcome any questions.

The Chair (Mr. Shafiq Qaadri): Thank you. About 20 seconds a side. Mr. Marchese.

Mr. Rosario Marchese: Thank you for coming. This program is the right thing to do, but it's got to be done right. You have raised many questions that have been raised today, had been raised yesterday and that will be

raised on Monday. It's important to continue to force the government to hear that, without adequate resources, this will not work. Thank you for the message.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Mr. Flynn.

Mr. Kevin Daniel Flynn: I'd like to thank you as well for coming today. Your concerns on the protection of constitutional charter rights are noted, and certainly a call for flexibility has been heard from a number of people. We all understand it will be a phased approach. Your last paragraph offering to work along with us is sincerely appreciated.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Madame Witmer.

Mrs. Elizabeth Witmer: I want to thank you for your presentation. I think it's outstanding. I think what all of them are demonstrating is that this government has moved forward without any consideration for the consequences of what they're doing or the need for additional resources. Here we are registering students, and we haven't even addressed all of the problems and issues out there. So I applaud you for covering—

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Witmer, and thanks to you, Madames Peroni, Devine and Kirby, for your deputation on behalf of the Ontario Catholic School Trustees' Association.

CANADIAN UNION OF PUBLIC EMPLOYEES, ONTARIO

The Chair (Mr. Shafiq Qaadri): Is our next presenter available, Mr. Fred Hahn of CUPE? Great. Welcome. Mr. Hahn, I think you know the drill very well.

Mr. Fred Hahn: I do.

The Chair (Mr. Shafiq Qaadri): Please begin now.

Mr. Fred Hahn: My name is Fred Hahn and I'm the president of the Canadian Union of Public Employees of Ontario. With me today is Brian Blakeley, who is our coordinator for school boards, and Stella Yeadon, who does legislative work with us. We represent 230,000 members in the province employed in a variety of areas, like health care, school boards and municipalities—a range of broader public sector employment. In our membership, we have about 6,000 early childhood educators and about 18,000 educational assistants employed in community-based programs, in school boards and in municipal settings. Of course, our members are parents. They have kids and they need access to quality, affordable child care so that they can go to work.

Our members understand the value of a quality public education system and a quality public child care system, so we're here today to comment on Bill 242. We have a very clear, public opinion about a report commissioned by the government, issued by Dr. Charles Pascal, that spoke about a vision for a comprehensive public early learning program in the province of Ontario. We have supported that vision very clearly. So the components of this bill that pick parts of that vision—we are very proud to be here to say we're glad to see that this bill articulates

clearly that this will be a public system and that there will be team teaching. It recognizes the merits of the expertise of early childhood educators. It talks about a seamless day. It enables partnerships with municipalities on the issues of subsidies. It will make schools even more important than they are today in our communities.

There will be real, positive economic impacts as well. Along with the positive educational care outcomes that an early learning and care program for children will bring, there are real workforce benefits as well that a fully universal system will bring in supporting working families, but also, people retraining for jobs in the new economy through a universal, high-quality, public early learning and care system is a good investment in Ontario's economy. We believe it should be a clear plank in the province's anti-poverty plan.

There are, of course, concerns that we were hearing just a moment ago, and I'm sure you've heard before, about this piece of legislation. I think it was said just a moment ago that it is a good thing to do, but it must be done right. There are a couple of amendments that we would propose in this piece of legislation to strengthen and modernize it. For example, we think that there's an extension of outdated sections of the Education Act around probationary periods that are simply not useful and unnecessary, that collective agreement provisions should apply and that the legislation actually needs to be strengthened to ensure that it's school boards that are fully responsible for the delivery of the extended day portion of the early learning program; this is an important component of an early learning system.

Our biggest concerns have to do with the issues surrounding the implementation as it relates to funding. With any huge systemic change like this, there needs to be more attention paid to resourcing and funding the programs, not only specific funding to make sure that there's a stable foundation for early learning and care in school boards, but we believe that there's real potential for negative impacts on community-based child care and on municipal delivery of child care on other school support programs.

We think there needs to be a clear time frame for moving all kids in junior and senior kindergarten to full-day early learning. There needs to be a clear road map to a full implementation of the recommendations of the Pascal report. There has to be a clear timetable for offering this extended day to all children, including children up to the age of 12, a timetable that extends programming on professional development days, March break and summer holidays. We believe strongly, based on Pascal's recommendations, that all of these programs must be provided by staff employed directly by school boards.

There are real issues in relation to transition of the workforce that are also quite a concern for us. We believe that there needs to be a clear apprenticeship program that provides upgrading opportunities so that education assistants, child care workers and early childhood education assistants with some ECE credentials can become qualified to work as early childhood educators. We think

that this will head off what we see as a recruitment issue that will happen as the program extends.

There needs to be a comprehensive human resources strategy that would support workers affected by the movement of kids into this school-based learning program and extensive investments in the college system to facilitate the certification of the large number of early childhood educators that will be required not only to staff the school programs but also to ensure the necessary continuum of care that is required in the community for younger children and for kids, ultimately, until the age of 12.

This is a particularly urgent situation for French school boards that will be significantly challenged to hire ECEs due to the small number of registered ECEs who will have the requisite language skills. There needs to be careful management of this transition and real money to stabilize child care in communities and in municipalities and, ultimately, the provision of sufficient funds so that school boards can continue to provide universal programs.

While there may be a rationale for charging fees during the transition phase and the implementation of the early learning program, we believe the ultimate goal must be to have a non-fee-based system where costs would be covered through grants to student needs by the Ministry of Education. To do otherwise would result in a two-tiered education system for Ontario's future citizens and would undermine the benefits of early learning and care as a strategic economic, workforce and anti-poverty tool.

In summary, we would support the legislation in the main because we support the clear road map for integrated public early learning systems articulated in the report by Dr. Charles Pascal. But this legislation represents only a piece of that vision, so we believe that the families in the province of Ontario need a clear road map for the full implementation of that vision. Workers need to be supported in terms of transition and upgrading in relation to their skills, and there needs to be a clear direction from government to support the child care system with funding in municipal and community-based centres.

Thanks for your time.

The Chair (Mr. Shafiq Qaadri): We have about a minute per side, beginning with Mr. Flynn.

1710

Mr. Kevin Daniel Flynn: Thank you, Fred, for your presentation on behalf CUPE—always well-researched.

Just so I'm clear, we've had a number of people come forward in the afternoon yesterday and today, again, asking for flexibility. On page 4 of your presentation, you say that the legislation should not allow for the contracting out to third parties. Would you consider the YMCA or the YWCA a third party? A lot of school boards have asked to be allowed to continue with existing relationships that have been built up over the years. Your view would run contrary to that.

Mr. Fred Hahn: That's right. We believe that the best way to provide this program is consistent with the approach that Charles Pascal wrote in his vision, his road

map of early learning. It spoke to having a clear, integrated system provided by schools—that schools would be hubs—and that those people employed by school boards directly would be the ones who provide that care in a curriculum-based model, in a team-teaching model. That's a really important component, including the early learning programs that would start in the early part of the day—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Witmer.

Mrs. Elizabeth Witmer: I guess if that's the case, Mr. Hahn, are you not concerned about the impact it could have on the programs of people like the Y? I'll tell you, a lot of the presentations yesterday were from people who were before- and after-school providers and were really quite concerned about the impact. I think it's going to cause some great dislocation. How do we deal with those community groups that have played a vital role in the history of this province?

Mr. Fred Hahn: That's why we talked about the importance of an actual plan that is integrated and that provides funding for those community-based models. We believe that those community-based models are important and that there will still be need—and there will always be need—for child care in communities, not only for kids four and five, but for younger kids and for kids to the age of 12.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: Clearly, this government doesn't want to implement Pascal, except portions of it. All the child care providers, including all the YMCAs, were looking forward to all of the recommendations made by Pascal. They're not doing it. They might do it in 10 years, and even this limited program is going to be five years, if that.

The problem is that the child care providers, non-profit child care providers, are saying that if we don't provide stabilization funds, many of these non-profit child care providers are going to be in trouble. So they're looking for flexibility and stabilization funds, and it seems reasonable to me.

Mr. Fred Hahn: We believe that the best way to stabilize the system is in fact through funding. We think that there are community-based programs that are desperate these days because they're not sure where they're going to be able to make up those resources that four- and five-year-olds provided in their programs. The best way to do that is to actually stabilize community-based care; it's not to piecemeal a system that actually does, in fact, implement part of what Pascal talked about—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese, and thanks to you, Mr. Hahn and Mr. Blakeley, for your presentation on behalf of CUPE.

ONTARIO COALITION FOR BETTER CHILD CARE

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Calver of the

Ontario Coalition for Better Child Care. Welcome and please begin now.

Ms. Andrea Calver: Good afternoon. My name is Andrea Calver. I'm the coordinator at the Ontario Coalition for Better Child Care. We are Ontario's advocacy organization, comprised of provincial organizations and child care programs that support a universal, not-for-profit system of early learning and child care.

I want to start with a quote from the Pascal report. Whenever we're in doubt of what to do, we look to the report because a lot of thought—in fact, 14 months of thought—went into that report, and we believe it provides an excellent blueprint for the issues that your committee is dealing with:

“To fully benefit from full-day learning for four- and five-year-olds, we must deal with the chaotic mix of child and family services we currently have in our communities. It would be ineffective and costly to layer a new program on top of a web of unsolved problems. We must turn a jumble of children's programs into a child and family service system that closes the gaps and offers a continuum of services for children from birth to age 12”—page 5, from *With Our Best Future in Mind*.

I do want to remind us how we came to be here. In the 2007 provincial election, then-Premier Dalton McGuinty promised a program of full-day learning for four- and five-year-olds. It was on the basis that full-day learning would be new money—that any savings through the implementation of this program would be kept in child care and that early learning and child care budgets would remain stable and secure. The commitment was also to free up spaces for younger children and, in fact, to make child care more affordable for parents.

Premier McGuinty appointed Dr. Charles Pascal to recommend ways to implement this, and we proudly supported Dr. Pascal's report. However, we are here today filled with concerns about the implementation of full-day learning and the impacts on the early learning and child care system.

Our concerns arise from the basic fact that this government is not implementing the Pascal report. The government has picked one piece to implement—full-day learning for fours and fives—and without implementing the rest of the plan, we believe that will lead to major problems for early learning and child care programs.

Full-day learning is just one in a long list of funding pressures facing early learning and child care programs. Funding for our programs has gone 15 years without an adjustment for inflation. In 2006, when the settlement of the charter challenge on pay equity expired, the provincial government just stopped funding equity payments in the proxy sector. In the 2003 election, Dalton McGuinty promised \$300 million in spending on early learning and child care programs. Today, after six years, I can report the Liberal government increased child care spending by just \$50 million in 2007-08.

Today's early learning and child care programs are financially fragile. Because child care is so expensive—\$10,000 to \$15,000 a year—many parents need help

paying for the high cost of child care. Waiting lists for child care subsidies are long and growing across the province. Especially hard hit are low-income families. It may shock you, but today across the province many centres have vacant spaces. It's not that the need isn't there; it's that local families can't afford the high cost.

At our presentation to the Standing Committee on Finance, I brought with me Rosemary White from the Bond Child and Family Development agency. Her organization is 73 years old, charitable, United Way-funded, with a special-needs program for children with autism. With today's child care funding system, she has a 39% vacancy rate. Because of long subsidy lines, her low-income population who live around her centre can't access the service and she's at risk of closure. Yet, early learning and child care programs fear cuts in Thursday's provincial budget. Whatever gains you want to make through policy planks like full-day learning or poverty reduction, cutting child care funding doesn't make sense.

Cuts to child care funding cut child care subsidies, and for low-income families it will be even harder to find child care. Centres, if they have vacant spaces, will have to lay off staff, increase parent fees or close altogether. Now, what does that have to do with full-day learning? These are complementary, integrated systems that we are supposed to be building.

In terms of financing of full-day learning and implementing the program, the government has not even committed the resources it originally said it would, and the government has asked school boards to implement an ambitious new program without sufficient resources. School boards are struggling to hire staff, plan the extended day, assure quality and deal with a multitude of other issues. And they're struggling for two reasons. There has not been enough direction from the ministry and the early years division; too many important decisions around quality are left up to underfunded boards. And school boards are being underfunded to deliver this program.

On the issue of direction to school boards, we believe this legislation should confirm that full-day learning is a year-round program. It should confirm that school boards are obligated to provide a hot lunch and snacks. It should cap class sizes at 26 and not have average class sizes. The legislation should confirm that there will be two staff in an extended day program. It should state that wherever possible ECEs receive full-time work.

On the funding inadequacies to school boards, one only has to look at the rates of pay for ECEs as authorized by the operating funding. At \$19.48 an hour, ECEs would be amongst the lowest-paid staff of everybody working in a school. Thankfully, many boards, through existing collective agreements, will be obligated to pay upwards of \$25 for their ECEs. However, as a school board, I would have to find that money in another program to support those extra costs, along with many more extra costs. We have great sympathy for school boards. They've been given a difficult job to implement this program without sufficient funding.

In the 2007 election, Premier McGuinty promised \$500 million of funding in the first two years, and before this program even started the government cut \$200 million in funding, now promising only \$300 million in the first two years. We do credit the Ministry of Education and the early years division for writing memos, having meetings and setting up committees and working groups. Even if they don't know the answer, the ministry and the division are not afraid to answer the call.

1720

The same cannot be said of the Ministry of Children and Youth Services. Since Premier McGuinty's announcement six months ago, the Ministry of Children and Youth Services has not yet held a meeting, put out a memo or answered a single question from a community-based child care program about the future of our funding. Despite the alarming statistic that 48% of Ontario's child care programs are directly impacted, starting this September, by full-day learning, the Ministry of Children and Youth Services has done nothing to address the increasingly serious concerns of child care programs and the financial uncertainty brought on by full-day learning.

The Pascal report provided a road map for your government to use to build a comprehensive system of early learning and care. Dr. Pascal knew younger children were more expensive to take care of, and that's why he recommended capital funding to allow centres to renovate to serve a younger age group and transitional funding to see the sector through this time of change. I will remind you that since October 27, there have been no announcements with regard to child care, only threatened cuts in this week's provincial budget.

Full-day learning was never supposed to take from one child and give to another, but we worry that within the school boards other programs will be de-funded to support full-day learning, and we worry that money from early learning and child care programs will now be used to shore up funding for full-day learning within the schools. It seems like the core election promise from the last election was a long time ago. Those commitments will not be met by the current program or its current budget.

Where we need to go: The fundamental solution is to fully implement the Pascal report. We believe a failure to fully implement the Pascal report puts both education and child care programs at risk. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Calver. About 20 seconds per side. Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much for bringing those issues to our attention.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: Thank you, Andrea. I'm afraid that the government is going to benefit from making this wonderful announcement, and all of the attendant problems that you and others have raised will simply never be solved. Unless we continue to push the minister and the Premier on this, I'm very afraid about the consequences—the unintended consequences—of this good idea.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Mr. Flynn.

Mr. Kevin Daniel Flynn: I'm a little more optimistic than my friends across. I just want to confirm that we do have a commitment to \$500 million in the first two years of the program. I don't know where you're getting that information from, but it would be inaccurate.

Mr. Rosario Marchese: Can't be me, Kevin.

Mr. Kevin Daniel Flynn: I don't know.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Calver, for your deputation on behalf of the Ontario Coalition for Better Child Care.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward, Mr. Ryan and Mr. Jarvis, on behalf of the Ontario English Catholic Teachers' Association. Welcome gentlemen. I invite you to please begin now.

Interjections.

The Chair (Mr. Shafiq Qaadri): Hopefully, order will be restored momentarily by my colleagues.

Please begin.

Mr. James Ryan: Thank you, Mr. Qaadri. I'd like to thank the committee for our invitation today.

I'd like to say, first of all, that from the very start and the announcement of this program, the Ontario English Catholic Teachers' Association has supported the vision of full-day kindergarten. We've emphasized this with our billboard that's right beside the Delta Chelsea hotel. That represents our commitment to ensuring that this program works next year and on into the future.

I'd also like to tell you that we are planning a conference this spring, likely in May, for every single kindergarten teacher in the Catholic system who will be in the full-day program, to equip them and to prepare them to work this September. We also run a kindergarten additional qualifications course, and we have run a kindergarten symposium in the past, prior to full-day kindergarten, to get our members ready.

We have our own research that confirms the long-term benefits of making this investment. For instance, a longitudinal study in Michigan shows the benefits reach far beyond the school years in terms of educational attainment, better salaries and even a lower divorce rate. Full-day kindergarten levels the playing field for all students. It provides every child with a fair and equitable start in their school years.

Research also shows that a less-hurried day provides better learning opportunities to children, and it allows for a more meaningful learning environment where the children develop using appropriate activities.

We believe that qualified teachers who have the skills to deliver these programs are essential to the program's outcome, just like in Finland, where it's shown that the qualifications of a teacher are linked to the success of the program.

We have some experience with full-day kindergarten. We have 10 boards across the English Catholic system that are operating full-day programs for four- and five-year-olds, and they all have been operating quite successfully. We believe, however, that this bill must be very clear and leave little wiggle room for the duties and responsibilities of both teachers and for early childhood educators.

The difference between a successful full-day kindergarten class operating in the 10 boards and the new program will be the team approach, where we have both an early childhood educator and a kindergarten teacher. How well this team works together is going to be the lynchpin for how successful this program will be. We believe that it's very critical that this program have very clear roles and responsibilities for the two professionals. They need to be clear for everyone in this program. The roles and the duties of the teacher and ECE cannot be too similar so that they overlap, or it will invite confusion and possibly conflict that could hurt the program.

Every team needs a team leader. We believe that the teacher is the team leader in the early learning kindergarten program, and Bill 242 must make this perfectly clear. The duties outlined in Bill 242 are in section 16, section 264.1 of this act. The duties written in Bill 242 should be amended to make the responsibilities clear.

We suggest two changes. First of all, early childhood educators should assist the teacher with planning. Secondly, since teachers are responsible for report cards, it must be clear that ECE/parent communications are informal. The duties outlined in this section related to ECEs and teachers—we believe a lot of these are redundant. Every duty is already listed, currently, in the Education Act. Teachers already, for instance, have a duty to co-operate and coordinate with school staff in the act. This section must be amended to remove references to teachers, as they're unnecessary and possibly misleading.

Finally, under section 16, subsection 264.1(3), it's ambiguous and quite unclear. We'd like an amendment to ensure that the duties of the teacher are unchanged and that the duties of the early childhood educator are only listed in subsection 264.1(2). This is very critical. Clearly defined roles also mean that the teacher should not be involved in the evaluation and mentoring of the early childhood educators. We say this because doing so, I think, would be a way to kill a collaborative working environment, which we all want.

We also believe that the bill must clearly state that there is one teacher in every class but not necessarily an ECE in every class. The bill must make it very clear that the early learning class has one teacher. It is only inferred in subsection 6(4) of Bill 242, subsection 170(2) of the act. You can find this on page 10 of our brief. At the same time, in terms of the government's position, initially it was stated there would be a floor below which there would not be an ECE, just a teacher. Now, this is absolutely critical to us, especially in rural Ontario and in northern Ontario, where class sizes in some of the

smaller areas may be quite small. You can have classes of 15, 14, 12 or even 10. In those areas, it would not be a wise expenditure to put two adults in a class of 10 because what will happen is that number will push up the aggregate average.

1730

Let me use Huron-Superior as an example. You have a major city there, Sault Ste. Marie—at least I think it's a major city—and you've got a lot of rural areas in Huron-Superior. In a lot of the rural areas where classes are nine and 10 and you have two adults there, what it's going to do is really push up the numbers of the classes in Sault Ste. Marie and all of your classes in Sault Ste. Marie will be hitting 30 and higher. So it's important, where you have smaller class sizes—15, 16, 17 and 18—that there just be a teacher in those in order to maintain that cap of 26—as much of a hard cap as possible.

Certainly in my talks with kindergarten teachers across the province, they say, "Well, it's great there are two adults." But if you have more than 30 kids in a class, there isn't going to be play-based learning there because people aren't going to be able to move. So that's a very important thing to consider.

I'd like to leave some time for questions. I'd just like to say that a lot of the aspects of this program are going to be in the regulations. We certainly are looking forward to working with you on those and ensuring that this program works. We think this program can be successful and Ontario can be a world leader as a result of this program.

The Chair (Mr. Shafiq Qaadri): Thank you. Thirty seconds a side. Mr. Marchese.

Mr. Rosario Marchese: James, you raised a lot of good concerns and I want to touch on one. You talked about maintaining a cap of 26, but at the moment we're dealing with an average of 26. Are you saying that the cap should be 26 or are you suggesting the cap should be even lower? Are you making a suggestion?

Mr. James Ryan: As the leader of a teacher federation, obviously I'd like the cap as low as possible.

Mr. Rosario Marchese: What's reasonable?

Mr. James Ryan: Certainly, what I've heard from our teacher members—obviously, they would like 20.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Mr. Flynn?

Mr. Rosario Marchese: They would like 20. Twenty-six would be reasonable, wouldn't it?

Mr. James Ryan: Yes.

Mr. Kevin Daniel Flynn: James and Marshall, thank you for the work you've done on this. Obviously you've done some advance work. We've had a number of people appear before us. Some are telling us that it's a great idea, but it's going to cause a lot of upsets. Some people are saying it's the wrong time to do it. Others are saying, "We're not doing enough." You appear to be saying, "Let's get on with it."

Mr. James Ryan: Absolutely. I think we're going in the right direction with this move. I think this will have long-term benefits for the children and for Ontario.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much, James. I think you've done a really good job of pointing out what you support and where you have concerns and hopefully the government will take some of those points into consideration.

Mr. James Ryan: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer, and thanks to you, Messrs. Ryan and Jarvis, for your deputation on behalf of the Ontario English Catholic Teachers' Association.

ELEMENTARY TEACHERS' FEDERATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters, Mr. Hammond, Mr. Lewis and Ms. McCaffrey, on behalf of the Elementary Teachers' Federation of Ontario. Welcome.

Mr. Sam Hammond: Thanks.

The Chair (Mr. Shafiq Qaadri): Please begin.

Mr. Sam Hammond: I'm Sam Hammond, president of the Elementary Teachers' Federation of Ontario. With me today are Gene Lewis, our general secretary, and Vivian McCaffrey, executive assistant.

I want to be very clear from the beginning that ETFO supports the government's overall plan for early learning and welcomes this opportunity to identify provisions of Bill 242 that need to be clarified or addressed in order to ensure the success of the program.

Ontario elementary teachers have a proud history of providing high-quality kindergarten programs that date back to when the first public kindergarten class opened its doors in Toronto in 1883. While compulsory education in the province doesn't begin until grade 1, the vast majority of parents of four- and five-year-olds have taken advantage of the kindergarten programs offered by publicly funded school boards across the province.

Judging by the early reports on registrations for next fall's first phase of the early learning program, full-day programs are welcomed and supported by parents. By establishing an enhanced education program for kindergarten-aged children, Ontario is moving one step closer to catching up with the more extensive and highly successful early childhood education programs provided by other industrialized nations.

The early learning program goes well beyond the 2007 Liberal campaign promise to expand kindergarten to full-day programs. By adopting a model that integrates early childhood educators into the classroom alongside a teacher, the province is introducing an element that will contribute to the quality of those programs. Early childhood educators' background in early child development will enhance the play-based philosophy of the program and complement the skills and knowledge of the teacher. This unique staffing model, however, possesses some challenges that need to be and must be addressed through amendments to Bill 242.

Section 16 of the bill adds section 264.1 to the act and establishes a duty to cooperate on the part of teachers and ECEs regarding provision of the early learning program. Subsection 264.1(2) identifies the specific aspects of the program delivery that will require cooperation. This section of the bill raises a number of concerns. Clause 264(1)(d) of the Education Act already establishes a teacher's general duty to cooperate regarding work with other members of the school staff. The detailed and prescriptive nature of the bill's new section 264.1 is unnecessary. It would be more appropriate to include a mirror "duty to cooperate" provision for early childhood educators assigned to the early learning program and to leave the specific details of program delivery to future ministry policies and guidelines. Section 264.1 also lacks clarity regarding the teacher's responsibility to teach and for having the lead responsibility for the early learning program. While ETFO is committed to supporting a collaborative relationship in the classroom between the two professionals that fully respects the expertise and qualifications of ECEs, the failure to clearly identify the teacher as having overall responsibility, or the lead role, if you will, will invite confusion and conflict.

The bill does not anticipate what will occur in situations where the teacher and the ECE fail to agree with respect to the specific responsibilities. Most schools will likely offer extended day programs before and after the regular school day. This will necessitate assigning two ECEs to each class. Teachers, therefore, will be collaborating with more than one ECE. The more staff involved, the more likely there will be instances of differing opinion.

Section 262 of the Education Act stipulates that no person shall be employed in an elementary or secondary school "to teach or to perform any duty for which membership in the college is required under this act unless the person is a member of the Ontario College of Teachers." The bill, through new subsection 170(2.1), establishes that, in the early learning program, "An early childhood educator ... shall be in addition to the teacher assigned or appointed to teach the junior kindergarten or kindergarten class."

While these provisions appear to assign the distinct responsibility to teach to the teacher, paragraph 1 of subsection 264.1(2) muddies the waters by requiring teachers and ECEs to cooperate in "Planning for and providing education to pupils in junior kindergarten and kindergarten" and extended day programs. There is no definition for what "providing education" means and the failure to do so creates ambiguity regarding the different responsibilities for teachers and ECEs.

In the section of the bill that provides the framework for school boards to provide extended day programs, the proposed subsection 260(1) requires that the board assign at least one position to an ECE "to lead the class." This section anticipates situations where the number of students enrolled in the extended day programs will require more than one staff person, who may or may not have early childhood qualifications. In this situation, the

bill respects the logic of identifying the staff person who will lead the class. Similarly, the bill should be amended to clarify the teacher's overall responsibility for the classroom during the regular school day.

Two paragraphs of subsection 264.1(2) are problematic in terms of confusing the role of teachers regarding the extended day programs. Paragraph 2 outlines the teachers' and ECEs' responsibilities for "Observing, monitoring and assessing the development of pupils in junior kindergarten, kindergarten, and extended day programs." Paragraph 5 refers to their responsibility for "Performing all duties assigned to them by the principal with respect to junior kindergarten, kindergarten and extended day programs." As written, both paragraphs could be interpreted to imply that teachers could be assigned duties related to the extended day. ETFO does not support teachers' responsibilities being extended beyond the regular school day. The bill should be amended to clarify the limitations of the teacher's role.

New section 260.2 will give the principal the authority to delegate any of his or her duties "that relate to the operation of extended day programs to a vice-principal or another person approved by the board." ETFO is concerned that this provision could easily be interpreted to mean that a principal could delegate these responsibilities to a teacher. The bill must be amended to clarify that principals will not have the authority to delegate their responsibilities for extended day programs to teachers.

The government has indicated that the early learning programs will be funded based on a class size of 26. Regardless of the presence of two educators, this number of four- and five-year-olds in an activity-based program is extremely problematic, both for programming and for the physical space required.

Added to the program concerns related to large class sizes is the fact that the average class size of 26 conflicts with a number of ETFO collective agreements, which have clear language setting maximum class sizes at lower than 26. ETFO is looking to the government to respect these agreements. Failing to do so will send an unfortunate message to public elementary teachers about the government's regard for their collective bargaining rights.

The government has indicated that it will allocate \$200 million to the early learning program in 2010-11 and an additional \$300 million in 2011-12. As we move closer to the launch of the new program, it is becoming increasingly clear that school boards will be hard-pressed to adequately support the program within the current allocation. Teachers are concerned that there will not be sufficient learning resources and that class sizes will be too large. In larger municipal centres, many ECEs will be faced with considering a salary cut by accepting a position within this program. The federation hopes that the budget will include some additional funding for the early learning program and for the fragile child care sector that is being affected by both the end of federal funding and by the move of some four- and five-year-olds to the early learning program.

In conclusion, the federation is committed to working with the government to make the early learning program a success. If the concerns identified above are addressed, we are confident that Ontario will introduce an education program that will contribute significantly to the development and growth of young children and position the province as an educational leader on the national scene.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hammond, Mr. Lewis and Ms. McCaffrey, for your deputation and presentation on behalf of the Elementary Teachers' Federation of Ontario.

If there's no further business before the committee, we are adjourned for further hearings on Monday, March 29 at 2 p.m. in committee room 1. Merci beaucoup et bonsoir.

The committee adjourned at 1740.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Also taking part / Autres participants et participantes

Mr. Ted Arnott (Wellington–Halton Hills PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service

CONTENTS

Tuesday 23 March 2010

Full Day Early Learning Statute Law Amendment Act, 2010, Bill 242, Mrs. Dombrowsky / Loi de 2010 modifiant des lois en ce qui concerne l'apprentissage des jeunes enfants à temps plein, projet de loi 242, Mme Dombrowsky	SP-41
Association des conseils scolaires des écoles publiques de l'Ontario.....	SP-41
Mme Louise Pinet	
Association des enseignantes et des enseignants franco-ontariens	SP-42
M. Benoit Mercier	
Association franco-ontarienne des conseils scolaires catholiques	SP-44
Mme Dorothée Petit-Pas	
Centre éducatif Les Petits Trésors.....	SP-46
Mme Nancy Kelly	
Regroupement des services éducatifs à l'enfance d'Ottawa / Meilleur départ.....	SP-47
Mme Jocelyne Raymond	
Mme Mireille Chartrand	
Ontario Catholic School Trustees' Association	SP-49
Ms. Paula Peroni	
Ms. Nancy Kirby	
Canadian Union of Public Employees, Ontario	SP-51
Mr. Fred Hahn	
Ontario Coalition for Better Child Care.....	SP-53
Ms. Andrea Calver	
Ontario English Catholic Teachers' Association	SP-55
Mr. James Ryan	
Elementary Teachers' Federation of Ontario	SP-56
Mr. Sam Hammond	

Continued on inside back cover



SP-3

SP-3

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 29 March 2010

Journal des débats (Hansard)

Lundi 29 mars 2010



Standing Committee on Social Policy

Full Day Early Learning
Statute Law
Amendment Act, 2010

Comité permanent de la politique sociale

Loi de 2010 modifiant des lois en
ce qui concerne l'apprentissage
des jeunes enfants à temps plein

Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 29 March 2010

Lundi 29 mars 2010

*The committee met at 1359 in committee room 1.*FULL DAY EARLY LEARNING
STATUTE LAW AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'APPRENTISSAGE
DES JEUNES ENFANTS À TEMPS PLEIN

Consideration of Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters / Projet de loi 242, Loi modifiant la Loi sur l'éducation et d'autres lois en ce qui concerne les éducateurs de la petite enfance, la maternelle et le jardin d'enfants, les programmes de jour prolongé et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues, and welcome again to day three of hearings of the Standing Committee on Social Policy with reference to Bill 242.

CANADIAN HEARING SOCIETY

The Chair (Mr. Shafiq Qaadri): We have our first presenter of the day, Mr. Gary Malkowski. Welcome, Mr. Malkowski. It's an honour to have you here. Just for the benefit of the committee, as you'll know, Mr. Malkowski served in the Legislature of Ontario from the years 1990 to 1995.

You'll have 10 minutes, sir, in which to make your presentation. I would invite you to please begin now.

Mr. Gary Malkowski [Interpretation]: Thank you, Mr. Chair, for this opportunity to present to you.

Before I begin my presentation, I have brought a photocopy of an article from Exceptional Family, Canada's resource magazine for parents of exceptional children. It's the spring 2010 edition. There's an article here, "Sign Language for Children Who Can Hear and Speech for Children Who Are Deaf." It's a very interesting article. The policy here in Ontario is that parents are not allowed to have both auditory/verbal therapy and American sign language. Often, parents are caught in an untenable position where they want both but they are not provided that option. That creates a barrier for them. This is more for your information.

The Canadian Hearing Society is an agency which has worked for 70 years with and for people who are

culturally deaf, oral deaf, deafened and hard of hearing. We operate in 28 offices across Ontario. CHS strives to develop high-quality and cost-effective services in consultation with national, provincial, regional and local consumer groups and individuals.

CHS is the leading provider of services, products and information that remove barriers to communication, advance hearing health and promote equity for people who are culturally deaf, oral deaf, deafened and hard of hearing.

The government's plan for the Full Day Early Learning Statute Law Amendment Act, as set out in Bill 242, has serious problems.

Bill 242 does not include services for deaf and hard-of-hearing children in provincial schools, i.e. nursery school or preschool programs for those children who are aged between two and four, since this bill is only authorizing school boards to be allowed to establish early childhood education services and programs. Bill 242 provides no guaranteed access and accommodation for deaf and hard-of-hearing children in school boards' early childhood education programs, including nursery school or preschool programs for deaf and hard-of-hearing children.

In an important way, Bill 242 violates the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities, ratified by the government of Canada, by not providing deaf and hard-of-hearing children with accessible early childhood education programs in both provincial schools and school boards; for example, sign language environments similar to the Bob Rumball Centre for the Deaf's Happy Hands preschool programs for deaf, hard-of-hearing and hearing children.

Bill 242 does not address the needs of deaf, deafened and hard-of-hearing preschool children in northern Ontario and rural areas who are in dire need of services from the Ministry of Education.

Bill 242 raises more questions than it answers.

Will this mandate schools to include early childhood services for deaf children at provincial schools?

Will it provide accessible early childhood education services and programs to deaf children and hard-of-hearing children who are in school board programs?

Will it provide access and accommodation policies in school boards and provincial school programs as well as for the College of Early Childhood Educators when

communicating directly with parents who are culturally deaf, oral deaf, deafened and hard of hearing?

Our recommendations for Bill 242 are offered here as amendments only if the government decides to go ahead with this bill.

Ensure Bill 242 does not take away any rights from children as defined in the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities.

Ensure that Bill 242 does not take away any services from preschool children at provincial schools for the deaf and the Bob Rumball Centre for the Deaf's Happy Hands programs and services.

Include a mandate of early childhood education programs and services for deaf and hard-of-hearing children who are in school board and provincial school programs in Bill 242.

Ensure Bill 242 shall define clearly how parents of deaf and hard-of-hearing children and parents who are culturally deaf, oral deaf, deafened and hard of hearing will know about accessible early childhood education programs and how they will be able to get in touch with her or him if they need information and access to accommodation provisions. For example, there is nothing that says parents have that information right in their hands, and nothing that says they need accessible ways to contact the office of the College of Early Childhood Educators—for example, the ability to make a private call, use a TTY or video relay services, or request sign-language interpreting.

Ensure that public consultations, and the legislative and policy decisions that will eventually result from them, will help all children with disabilities, including those who are culturally deaf, oral deaf, deafened and hard of hearing, while also increasing public awareness and removing the stereotypical thinking and negative attitudes toward culturally deaf, oral deaf, deafened and hard-of-hearing children.

1410

Ensure that public consultation processes be accessible to culturally deaf, oral deaf and hard-of-hearing young people who require more lead time to contact, arrange and confirm support services, such as sign language interpreters and real-time captioners. These support services enable culturally deaf, oral deaf, deafened and hard-of-hearing young people to prepare their submissions and presentations and to express their ideas in their own language or by a means accessible to them. Limited literacy levels mean that some consumers require more time to read and understand Bill 242 and its implications.

Ensure that through policy development and attitude barriers awareness training, Bill 242 confronts and eradicates ableist and audist attitudes and behaviours in school board and provincial schools' early childhood education programs and the College of Early Childhood Educators.

Ensure that the school boards, provincial schools and College of Early Child Educators hires trained staff who communicate using sign language and have the know-

ledge, understanding of and sensitivity to culturally deaf, oral deaf, deafened and hard-of-hearing children and their parents when providing services regionally and provincially.

Ensure that there are clear internal policies and procedures for providing access and accommodation for culturally deaf, oral deaf, deafened and hard-of-hearing children in school boards, provincial schools and College of Early Childhood Educators

Provide regular, mandatory awareness training be provided to all levels of staff of the school boards and provincial schools' early childhood education programs as well as for the College of Early Childhood Educators about the communication needs of culturally deaf, oral deaf, deafened and hard-of-hearing children and how to meet these needs.

The Chair (Mr. Shafiq Qadri): Has Mr. Malkowski stopped?

Mr. Gary Malkowski: No.

In conclusion, CHS strongly endorses the immediate need for establishing and providing for accessible and effective early childhood education programs for deaf and hard-of-hearing children. Bill 242 needs to include an enforcement mechanism, quality assurance and sufficient resources to ensure that qualified accommodation measures are available, for example, sign language interpreting and real-time captioning. The legislation needs to have authority and be suitably funded so that proper systems can be set up to monitor and enforce the powers and functions of College of Early Childhood Educators in the early childhood education programs in school boards and provincial schools by strengthening Bill 242.

Bill 242 will clearly be inadequate unless amendments to include services for deaf and hard-of-hearing children in school boards and provincial schools' early childhood education programs are made before third reading.

Bill 242 falls significantly short of what is needed to strengthen and improve the effectiveness in the delivery of accessible and effective early childhood education services and programs for deaf and hard-of-hearing children.

The above recommendations are clearly supported by the United Nations Convention on the Rights of Persons with Disabilities, the Ontario Human Rights Code—for example, the Ontario Human Rights Code policy and guidelines on disability and the duty to accommodate—and the Accessibility for Ontarians with Disabilities Act—i.e., regulations on customer service.

CHS is prepared to work closely with school boards and provincial schools' early childhood education programs and the College of Early Childhood Educators to develop appropriate policies and provide awareness training for school boards, provincial schools and the College of Early Childhood Educators personnel to ensure culturally deaf, oral deaf, deafened and hard-of-hearing parents and their children can be full participants in any services in which they may be involved.

The Chair (Mr. Shafiq Qadri): Thank you very much, Mr. Malkowski. We really have a few seconds

left, so I think that, on behalf of the committee I will attempt my first coherent sentence in sign language and that is this: For Ontario, thank you very much for coming. Thank you.

Mr. Gary Malkowski: You're most welcome.

LAKESHORE COMMUNITY CHILD CARE CENTRE

The Chair (Mr. Shafiq Qaadri): I will now move to our next presenter Ms. Tjernstrom, on behalf of the Lakeshore Community Child Care Centre. Just to notify colleagues and all those who are going to testify before us, you have 10 minutes in which to make your combined presentations. Time remaining within that will be distributed amongst the parties evenly for questions.

I invite you to please begin now.

Ms. Lisa Tjernstrom: Thank you for the opportunity to address this committee. I was compelled to come and share some thoughts and concerns about this historic opportunity with the implementation of universal full-day early learning for four- and five-year-olds in Ontario.

I'm the director of a not-for-profit child care centre that's been serving families in Etobicoke for 20 years. We take great pride in our program, the excellence of our staff, homemade nutritious lunches and an ability to meet the needs of children and their families. We have excellent facilities in a purpose-built building, as well as shared space in a TDSB school. We are sure to lose some or all of our shared space as the school reclaims their classrooms for a full-day early learning program.

We care for 118 children every day. Of these, 32 are four- and five-year-olds and 60 are in grades 1 through 5. We're worried about the future viability of our centre as we lose the older children and replace them with infants, toddlers or preschoolers who are far more expensive to care for. These will rise significantly in an area that is already too expensive for many parents to afford and has not enough money to pay ECE staff the salaries they deserve. Many families that would be eligible for a fee subsidy will not be able to access one due to the long subsidy waiting list. Existing child care programs will need capital and transitional funding to remain viable as they turn to serve the younger population.

Many of our concerns with the implementation of full-day early learning revolve around the quality of care that will be offered to children in the new model. The early learning program should not be diminishing the quality of our current standards. Currently, licensed child care is regulated by the Day Nurseries Act and, in Toronto, by the Toronto operating criteria.

We offer year-round, consistent care with professional staff, a hot nutritious lunch and two snacks a day. In our ratios of 1 to 8 or 1 to 10, with a maximum group size of 24, we're better able to interact with children as they explore their world and learn through play. Our ECE staff always have the support of other staff in the program, if not in the same classroom, at the very beginning and at the very end of the day.

We're concerned that Bill 242 does not address the year-round early learning program; that class size is not capped at 26 but rather is an average; that the extended day needs to have more than one ECE responsible for a group of children and the hours for ECEs are not mandated to be full-time jobs; that school boards are being grossly underfunded and will be forced to take from one program to pay for the other; that there's no funding for any management structure within the schools to run the programs or for quality assessment; and that there's no provision for nutrition.

With only three months left in this school year, so many questions remain unanswered for children, families and professionals. We don't know if there will be additional subsidies available for this program and how they'll be managed. We don't know how much the extended day will cost and what that cost will include.

We're concerned that Charles Pascal's full vision has not been addressed. He recommended an integrated program with improvements for all children from zero to 12. This piece, which culls four- and five-year-olds out of licensed child care, has the capacity to undermine existing resources and propagate our fragmented system.

You have an opportunity to refine this legislation to mandate school boards to follow best practices for children and families in Ontario, and I'm here to ask you to do so.

That is all.

The Chair (Mr. Shafiq Qaadri): Thanks very much, Ms. Tjernstrom. You've left a generous amount of time for questions, I guess about two minutes or so per side, beginning with you, Mr. Marchese.

Mr. Rosario Marchese: You've raised a lot of good questions. I've raised many similar problems in my speech when I spoke to this bill. We're very worried. My sense is that they haven't thought it through very well. I'm a big supporter of this program, but if you don't think it through very well, you're jeopardizing not just this program but many of the other existing programs.

One of the questions I want to ask you is, the government has said that they will continue with the \$63-million funding for child care, which is a continuation of what the feds had given. Now they're going to give their own money finally, which is a good thing. They say that, and it makes it appear as if somehow that money might solve some of these other questions that you've raised around licensed non-profit child care centres that, when you pull those kids out, might still be in jeopardy. Does that \$63 million help in any way?

Ms. Lisa Tjernstrom: It keeps what we have alive; it doesn't give us anything new. Basically, it supports the subsidized system. So what it does is, it keeps the centres we have now viable with what they have now. My board of directors said to me last week, when I was sending out an email saying, "Phew. Thank God we got that"—someone said, "Have you ever celebrated so much for what you've already had?"

1420

Mr. Rosario Marchese: That's right, and that's my worry, because they give the impression that we've

solved all the problems of child care, including the problems that flow from this bill. My point with you is that they haven't.

Ms. Lisa Tjernstrom: No. They saved us, but they didn't solve anything.

Mr. Rosario Marchese: Right. Unless there's some money that keeps supporting the work you've done, many are still threatened with closures. Is that not correct?

Ms. Lisa Tjernstrom: Absolutely.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qadri): Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you for coming today, and thanks for the work you do with our children. Am I right to assume that you support the concept for four- and five-year-olds?

Ms. Lisa Tjernstrom: Yes.

Mr. Kevin Daniel Flynn: Okay, so you support the idea, and what concerns you is how the system is going to evolve and what role your organization will play in this?

Ms. Lisa Tjernstrom: Frankly, I'm not as concerned for my personal organization. We have a strong, healthy base. We have a huge waiting list for toddlers. I could expand to the younger kids and probably have a population that could afford to pay whatever we're going to ask them to. But that doesn't answer the problem for the rest of the province.

Frankly, the people who are in need of a child care subsidy are most people. There are very few people I know who can afford to pay—our fees right now are, for a toddler, \$217.50 a week, and for a preschooler, \$183 a week. So if you have two kids, you're talking \$400-plus a week for child care, and that's only going to go up. With the lack of subsidies, centres are threatened because if you can't bring them in, you can't stay open.

Mr. Kevin Daniel Flynn: At some point in the past—it wasn't that long ago—quite a few of us were hoping to see a national child care strategy, across the country, that protected all children. "Protected" wouldn't be the right word; perhaps—

Ms. Lisa Tjernstrom: Served.

Mr. Kevin Daniel Flynn: "Served all children" would be better. That fell by the wayside, and Ontario has agreed to make up for some of the shortcomings of the previous program. Are you advocating with the federal government as strongly as you are with us?

Ms. Lisa Tjernstrom: Oh, absolutely.

Mr. Kevin Daniel Flynn: Well, that's wonderful. So you're saying that you support the concept, but there are some changes that need to be made to make it work in the way that it should?

Ms. Lisa Tjernstrom: I think that at the end of the day, what's good for children is good for their families, but it needs to not be okay just because it's free. It needs to still offer all the best that we've come so far—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Flynn. To you, Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much for your presentation. Actually, it's similar to many others that we've heard from the people who are providing child care on the impact it's going to have on their centres. Some of them are actually quite heartbreaking. They've been around for many years in the province, families love them and trust them, and some of them are not going to be able to survive. I hear you say that you have a strong base of support. They're going to go out of business.

So I guess that's one of the concerns that I personally had: the lack of foresight and consultation that was involved in bringing forward this bill and in, somehow, taking into consideration the impact it has on you and others and, as a consequence, some of the children. If daycares go under, there simply won't be any place for these younger children to go. So I appreciate that you have come forward.

Do you think you'll always have the same number? Have you found another physical location from the school where you are?

Ms. Lisa Tjernstrom: Well, no. We have a purpose-built building. Whether that survives—I'm sensing at this point it will and that we'll still have it. But certainly, I know lots—and having said that, having said that my centre will survive, we will not still be an employer of the size we are now. We'll have to lose at least four or maybe six staff.

Mrs. Elizabeth Witmer: Thank you very much. I appreciate your time.

The Chair (Mr. Shafiq Qadri): Thank you very much, Ms. Witmer, and thanks—

Mr. Rosario Marchese: Mr. Chair, we don't have a copy of her comments. Can we get a copy of her comments?

Ms. Lisa Tjernstrom: My husband drove away with the 25 copies. I'm really sorry.

The Chair (Mr. Shafiq Qadri): There's opportunity for you to furnish it to the committee afterwards, so please feel free to do that.

Ms. Lisa Tjernstrom: I will. Thank you.

The Chair (Mr. Shafiq Qadri): Thank you very much on behalf of the committee.

MS. SHANI HALFON

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenter, Ms. Halfon, to please come forward. She's coming to us, I guess, in her capacity as a private citizen.

I'd invite you to please begin now.

Ms. Shani Halfon: Thank you. Good afternoon. My name is Shani Halfon. I am an early childhood educator, a university student and a parent, but I'm coming here today more on behalf of children in Ontario.

I am aware of the issues and challenges facing the implementation of the full-day learning program for four- and five-year-old children in Ontario, as well as those pertaining to Bill 242. I have provided a write-up on the specific aspects of Bill 242 that I see as potentially

threatening to the quality of the early learning program. I attended the public hearing last Monday, and I believe the committee is well aware of the various concerns from people and organizations in child care, education and other services and programs for young children. I too have these concerns. My greatest concern, however, is that among all the worries and demands, the vision of an integrated, accessible and high-quality early learning and care system will be lost.

Thankfully, the announcement of funding for child care in last Thursday's budget has calmed some primary concerns from the child care sector in this province. However, I believe there are still considerable questions remaining around the impacts of full-day learning on these programs' functioning.

Currently, Ontario, like much of the rest of this country, suffers from a confusing, desperately underfunded and inefficient system of programs for young children. This system leaves children vulnerable to a shaky start in life and denies them the right to their share of our country's wealth and resources. The current situation in Ontario leaves little room for a program like full-day learning to be implemented without creating significant impacts on existing programs that will threaten their viability and, in some cases, cause resistance to the program. Although I want nothing more than for this program to move forward, be successful and become a permanent part of the education system in Ontario, I fear that children will not benefit fully from this program if we do not take into account the very details that the program aimed to confront.

Charles Pascal made it very clear in his report to the Premier that to "fully benefit from full-day early learning for four- and five-year-olds, we must deal with the chaotic mix of child and family services we currently have in our communities." This system is so fragile that, although its providers and practitioners support full-day learning, their very existence is threatened by it. The consequence now is that this foundational program that aims to see all four- and five-year-olds in the province with accessible, high-quality early learning and care, while supporting their families to work and have increased opportunities for prosperity, is being pulled apart by various interests that have valid reasons to demand the protection of their resources, programs and jobs.

The reality is, however, that for this program to work the way it was intended by Pascal and those he extensively consulted with, the school boards are supposed to provide full-day, full-year care for children from the ages of four to 12. This vision was meant to integrate services within schools, so that they were more accessible for families, bureaucratic duplication was eliminated, and our resources and facilities were used in the most effective and efficient ways. Most importantly, this program was meant to limit the amount of transitions young children have to make during a time in their lives when security, stability and consistency provide the optimal opportunity for strong development and growth.

The reality is that there is room for everyone to participate in the plan set out by Charles Pascal. If you look at early childhood education and care for children under four, you'll find extensive waiting lists and a severe shortage of spaces. Inevitably, the spaces left by the four- and five-year-olds moving to the full-day learning program will be gladly filled by those younger children. However, the child care sector must be provided with adequate resources and time to transition their services to cater to younger children.

School-age children also suffer from a severe shortage of accessible and affordable programs. High-quality programs already catering to this age group also have extensive waiting lists. The government of Ontario must take the needs of all players in the field of services for young children and families into account, but not lose sight of the ultimate vision of an integrated system of programs and services that aim to strengthen families and, most importantly, support all of Ontario's children to have the best possible start and finish in life. This will undoubtedly involve changes that may not be perceived as beneficial to all parties involved, but the question remains: Who is this system for? I thought it was for children.

I am not under the impression that this is an easy task, but I do know that it is possible. I also know that it is necessary for Canada to step up to the plate in terms of the provision of early childhood education and care, and that Ontario is meant to lead the way. Although some of you sitting before me may not even support the full-day learning program, the evidence is convincing that Ontario's children need the support and opportunity that the plan set out by Charles Pascal provides.

The persistence of child and family poverty and the reality that parents, including mothers, have no choice but to work in order to support their families, means that it is time to build a system that will enable all children access to education and care that meets the needs of their families and provides them with quality environments to learn and grow.

Additionally, it only makes sense to provide these services in the most efficient and effective way, and in order to do this, some things are going to have to change. These changes will not be easy for everyone; however, the main goal is to make things easier for children.

I feel that we have an opportunity in Ontario to get early learning and care right for our youngest citizens, and that we must not lose sight of the reasons this program was put forth as we tackle the many challenges of implementation.

1430

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Halfon. About a minute per side. Just to alert the committee, Parliament has actually adjourned. We'll start with the government side: Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you very much for your presentation today. As I understand it, you agree with the concept of full-day learning.

Ms. Shani Halfon: Absolutely.

Mr. Kevin Daniel Flynn: As I understand it, you are an early childhood educator, or you're soon to be?

Ms. Shani Halfon: I am. I'm an early childhood educator already, but I'm also going to get a degree in early childhood education at the end of this year.

Mr. Kevin Daniel Flynn: Wonderful. I've heard some say that this will elevate the profession. I know that, from my early days chairing the child care committee in the region of Halton, the pay level for early childhood educators and the respect they earned weren't what they should be. Are there parts of this bill that you could see will be elevating the profession as well as doing something good for the children?

Ms. Shani Halfon: Specifically elevating? I'm not really sure yet. I can't say yes to that question. I am concerned with the idea that school boards might be able to get out of hiring qualified ECEs.

Mr. Kevin Daniel Flynn: I don't think that's the intent. I know what you're talking about.

Ms. Shani Halfon: I hope that's not going to happen, and I explained why I fear that's detrimental to the quality of the program. We'll see.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Flynn. Ms. Witmer?

Mrs. Elizabeth Witmer: Thank you very much for sharing your concerns with us. I hope the government will take them into consideration when they make the improvements and strengthen the bill.

Ms. Shani Halfon: Me too. Thanks.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: Thank you, Shani. I agree with your concern about the letter of permission. That's what you were talking about. I raised those concerns as well in my remarks when I spoke to this bill. It could be a way of avoiding the payment of ECEs, or having ECEs.

Ms. Shani Halfon: Yes, exactly.

Mr. Rosario Marchese: That's your point, and I share that. Thanks for your comment about capping the class sizes at 26. The government still wants to pretend that it's capped at 26, but it isn't; it's an average. If it is 26, can you live with that number?

Ms. Shani Halfon: Yes, as long as the before- and after-school care is properly staffed and there are two trained professionals with the children at all times.

Mr. Rosario Marchese: Keep on insisting on that cap, because we have yet to persuade the government to do that.

Ms. Shani Halfon: Yes.

Mr. Rosario Marchese: Don't go away thinking that's a done deal, because it's not.

Ms. Shani Halfon: Absolutely.

Mr. Rosario Marchese: Thanks very much.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Halfon, for your deputation and written submission.

BOULTON AVENUE CHILDCARE CENTRE

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Schappert of the Boulton Avenue Childcare Centre to please come forward. Welcome, and please begin.

Ms. June Schappert: Thank you very much. My name is June Schappert and I am the director of Boulton Avenue Childcare Centre. Boulton Avenue Childcare Centre is a non-profit child care centre that has been around for over 25 years, and we service the families in the Broadview-Queen Street area. The children in our centre attend Dundas public school and Holy Name Catholic School. Both schools will be getting all-day learning come September 2010.

Our centre is basically supported by subsidized families, and this all-day learning is going to have a high impact on our families.

I have several questions that I feel have not been answered to date, and I was hoping that a date would be made so the families can make accommodations based on the answers to our questions. Many of my questions are geared towards the subsidized families because, like I said, we're probably 80% subsidized. These are questions that parents have asked me, and I personally have said that I don't know the answers:

(1) When my child graduates from kindergarten, can I get into the child care system again?

This question is based on the fact that extended care at the schools is only being offered to four- and five-year-olds at this time, so what happens next year when they go to grade 1?

(2) How is my subsidy being affected? Will it be carried over to the board of education or does the city carry it over? How, when and where do I apply?

(3) I am out of district from Dundas and Holy Name schools, and these schools are not accepting out-of-district children. What happens to me?

That's referring to the children who are out of district.

(4) My child will go to Holy Name, which is also a school that has all-day learning. Will there be a bus, and can my child still attend Boulton?

Unfortunately, this morning I received an email from city transportation, saying yes, there is a bus, but what's the good if I don't have a program to offer for the child?

(5) What happens on PD days, summer holidays, March break and winter holidays if extended care is not available?

(6) What will happen to my existing preschool room and the reliable, professional staff who have been with the centre for so long?

(7) Will there be funding available to renovate my site if this becomes an option?

(8) Since kindergarten is optional, can I leave my child at the daycare centre and my subsidy still continues?

And finally:

(9) When will we actually know something and will there be a date when all information will be finalized?

In summary, I would like to say that I feel parents' choices have been taken away on what they feel is best for their children, and the government of Ontario and Dr. Charles Pascal have decided for everyone.

This new bill states that four- and five-year-olds will be in a class size of 26 children, replacing the old ratio of 1 to 8 or 1 to 10 that is presently being offered at child

care centres. Children's social and emotional development needs will not necessarily be the main focus based on these ratios.

Children need a nurturing, caring environment that only a child care centre can offer. In a group size of 26 children, they will not get that proper attention that they so highly deserve at this young age. Extra hugs go a long way.

I will plead with you to continue to support the many families that rely on child care in order for families to survive in this struggling economy. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Schappert. About two minutes or more per side, beginning with Ms. Witmer.

Mrs. Elizabeth Witmer: I thank you for coming forward, and I guess that the questions that you've asked here are the questions that many people in the province have. In fact, I spoke to a parent today who had wanted her child just to go to half-day; the school is becoming a full-day one. She was told she could pick up her child halfway through the day, but, obviously, the child would be losing out on the program. She said, "I realize that there's no parental choice for me." She was rather disappointed. Hopefully, before too long, we'll get all this info.

Ms. June Schappert: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, June, for coming today and for the very practical questions. As I understand it, you have a four- or five-year-old, is that right?

Ms. June Schappert: No.

Mr. Kevin Daniel Flynn: You don't? Okay, but you're asking questions on behalf of parents who do have four- or five-year-olds?

Ms. June Schappert: On behalf of families, yes.

Mr. Kevin Daniel Flynn: In the area that you're from, you've had two schools approved: Dundas public and Holy Name.

The ratios will be 1 to 13, if I can answer that question first. You'll have two adults; where the average class size is 26, the intent is to have two adults in the room at all times. That could be a combination of ECE and teacher.

You say, "Children need a nurturing, caring environment that only a child care centre can offer." What would make you think that you couldn't get that nurturing environment within a kindergarten class?

Ms. June Schappert: The group size, the 26 children. Like I said, we're offering a 1-to-8 ratio in our centre right now, and I can't imagine some of these children going into a 2-to-26 category.

Mr. Kevin Daniel Flynn: Well, that's 1 to 13.

Ms. June Schappert: They need extra care.

Mr. Kevin Daniel Flynn: I agree with you on the hugs. We could all use more hugs, even us in this building from time to time.

For those parents who choose not to enlist—kindergarten is voluntary, obviously—there will be some who will decide that this isn't for them or for their child.

Ms. June Schappert: That's based on the subsidy in the city of Toronto because if you choose not to go to school, will the subsidy continue to let them stay at the daycare? So that's another issue I have with that.

Mr. Kevin Daniel Flynn: Yes, I can't imagine it wouldn't, but certainly we can get some of the answers for you. These are good, practical questions that really deal with the everyday implementation of this.

Ms. June Schappert: And I deal with these daily.

Mr. Kevin Daniel Flynn: It is a phased implementation, so it is something we'll be learning by doing a little bit on this. We're one of the first jurisdictions to go down this road, but you support the concept of full-day learning for four- and five-year-olds?

Ms. June Schappert: For some children, yes. I would say yes.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese, two minutes.

Mr. Michael Prue: Thank you, June. Sorry; I had to be out there to do an interview.

I look at your comment here, "In a group size of 26, children will not get the proper attention." That is my fear as well. My worry is that the class size may not be adequate. In some places, they might have the adequate space to be able to accommodate 26 students to take a nap. I don't know where they're going to find that kind of space. In some child care centres, they have a wash-room facility right there. In some other places, you might have to walk farther. I'm worried about that, and I'm worried about nutritious snacks. All those things concern me, and I'm not sure I'm hearing the right answers from the government.

You talk about a class size of 26, but you heard me say that it's an average.

Ms. June Schappert: Average; it could be more.

Mr. Rosario Marchese: The government is not committed to capping, and I think 26 is too many students. I really believe that. We have to get the government at least to agree to a cap, and we're not there yet. But you agree on a cap, I'm assuming. Correct?

Ms. June Schappert: Oh, for sure.

Mr. Rosario Marchese: Thank you, June.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Schappert, for your deputation.

1440

ASSOCIATION OF EARLY CHILDHOOD EDUCATORS ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Ms. Sousa of the Association of Early Childhood Educators Ontario. Welcome, and please begin.

Ms. Eduarda Sousa: Good afternoon. My name is Eduarda Sousa. I'm the executive director for the Association of Early Childhood Educators Ontario. Thank you very much for giving me this opportunity to address you.

The Association of Early Childhood Educators is a professional association of more than 2,500 early

childhood educators and non-profit child care programs across Ontario. Our mission is to be the leader in promoting professional development and recognition of early childhood educators on behalf of children in Ontario.

The AECEO fully supports the recommendations made by the province's early learning and care adviser, Dr. Charles Pascal, in his 2009 report *With Our Best Future in Mind*, and the direction of the Ontario government to publicly fund a full-day learning program for four- and five-year-olds.

We welcome the new developments that are unfolding in our field. Among them, we support increasing public and government awareness of the importance of building strong foundational learning and supports during the early childhood years; the value of integrated services from pre-birth to adolescence; the growing need to support the diverse cultural and lifestyle choices of families of young children; and the recognition of early childhood educators as a specialized and publicly accountable profession.

It is in this capacity that we highlight our main recommendations in regard to Bill 242.

The provision of extended-day programming in conjunction with a full-day program is what allows the full-day early learning initiative to be truly seamless—one of the key recommendations of Dr. Pascal's report. Allowing a school or school board to opt out of the extended program would not only negate the benefits of a seamless day; it would leave families with poor-quality before-and-after care or none at all. Existing child-care centres will be closing their programs for four- and five-year-olds due to the full-day early learning program, so families whose board or school opted out of offering the extended-day program won't have child care as an option. Alternatively, four- and five-year-olds might be accommodated in a child care centre but placed with older children. Smaller communities and rural areas, where demand for the extended-day program may be lower, would be the most affected.

School boards must be obliged to offer the extended-day program within the guidelines set out in the early learning adviser's report. Provincial funding allocations must take low-demand situations into account so that school boards are not penalized financially. Contingencies for children who do not attend the extended day should be enacted, such as a requirement to publish the extended program curriculum and allow child care programs to operate in tandem.

The AECEO strongly believes that early childhood educators, as defined by the *Early Childhood Educators Act, 2007*, and the registration regulations of the College of Early Childhood Educators, are skilled professionals and, in a full- and extended-day early learning program for four- and five-year-olds, are fully capable of delivering a planned and effective curriculum based on an understanding of child development and the value of play-based learning.

In order to deliver a planned and effective curriculum and support the principle of seamless early education

throughout the complete full- and extended-day period, the program will require a staff of two designated ECE positions and one teacher position. The ECE positions must be full-time, based on seven-hour days. We recommend that there be no circumstance in which a board is allowed to negotiate a lower staffing complement. Minimum requirements such as in the *Day Nurseries Act* should be enacted.

Our experience in the early-child-care sector has taught us that policies that allow untrained staff to work without seeking professional training or credentials will lead to programs that are not equal to others. The ministry of children and youth's issuance of director's-otherwise-approved status has resulted in a sector that now has between 20,000 to 25,000 untrained individuals working in licensed centres. These individuals are allowed to work under this policy for as long as they are employed at the same centre. There are today in Ontario individuals who have been working under this provision for as long as 20 years, and sometimes more.

This bill allows the minister to grant a letter of permission to a board to hire a non-ECE for up to one year, where no ECE is available. The role of the ECE in the early learning program is crucial. Substituting the ECE position with non-trained staff will remove the very core of what makes this program unique and result in some programs being run by two trained professionals while others have only one.

We urge the committee to include a limit on renewals of letters of permission, tied to a specific training plan and educational benchmarks for each individual to obtain the ECE training and licensing required for employment in the early learning program. Boards should be directed and funded to provide access to flexible training opportunities for these staff members. The hiring process and minimum qualifications also need to be set out, as with the letters of permission for teachers. In further support of the professionalism of early childhood educators, we recommend that there be a universal job description for ECEs issued by the Ministry of Education to all school boards.

Both the full-day early learning program and the extended-day program must be monitored based on comprehensive quality measures to ensure that programming, physical space, group sizes and ratios are consistent and based on best practices. These standards must meet *Day Nurseries Act* standards as a minimum.

There is no provision in the bill for the delivery of early learning program services for four- and five-year-olds on professional development days, school holidays and during the summer. There is also no requirement for boards to provide extended-day programs for children six and up. This not only makes it difficult for the licensed child care sector and school boards to plan effectively; it creates a huge challenge for families who have early learning and care needs year-round. Once the early learning program is delivered in the schools, there will no longer be a basis for providing early learning and child care for the designated age groups within child care centres.

It is not clear who will operate and run the early learning program on non-school days, or even where they will be located. As well, since the Day Nurseries Act does not apply within schools and Bill 242 refers only to school days, a huge gap in governing legislation and regulation exists in the administration of the program on non-school days. This gap not only undermines the importance of qualified staff providing professional early education for children; it undermines the government's commitment to quality education. A provision to obligate school boards to include non-school days within the early learning program must be included to protect children from having these programs operated in schoolyards and run by teenage camp counsellors, or some similar arrangement.

While we fully support the direction that we are taking for children, we are also cautious about losing the uniqueness that is early childhood education. Our members have told us that they do not want to lose the care and nurturing piece that is an integral part of their profession. They do not want to see the promotion of classrooms instead of playrooms, teaching instead of facilitating, testing instead of play process, or discovery through experimenting, trial and error or cause and effect. Early childhood educators want to become partners in an early learning program that is true to the values and spirit of what early childhood education is all about. The early learning program should incorporate the best of early childhood education through integration of the ELECT framework and the revised kindergarten program.

Unless provincial funding is provided, there will be negative impacts on the community-based child care sector as a result of moving four- and five-year-olds into schools. In order to ensure the continued viability of this sector, we recommend that the provincial government cover anticipated funding shortages by providing community-based programs with additional funding to cover the higher cost of delivering services to children zero to three years.

We trust that this committee will address these important issues in the course of its deliberations. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. Sousa. Just a handful of seconds: Mr. Marchese?

Mr. Rosario Marchese: A handful of seconds? Thanks very much. It was very thorough, very good. Keep up the pressure. Don't just think that you've done this submission today and they're going to listen.

Ms. Eduarda Sousa: Oh, believe me, we know.

Mr. Rosario Marchese: The many questions you've raised are going to continue even once this starts in September.

Ms. Eduarda Sousa: We're up for the—

Mr. Rosario Marchese: Challenge.

Ms. Eduarda Sousa: Challenge. That's right.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qaadri): Very judiciously used, Mr. Marchese. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, yes. I'd keep up the pressure on all parties, because certainly this is, I think, a watershed moment for early childhood educators to show the province what they're capable of doing if the right resources are applied to the profession.

1450

I really appreciate what you've said about the letters of permission, because you've explained it more clearly that that provision exists today in the teaching profession, and simply this will just mirror what the—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much, Ms. Sousa.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. Witmer, and to you, Ms. Sousa, for your deputation on behalf of the Association of Early Childhood Educators Ontario.

MIDDLE CHILDHOOD MATTERS COALITION TORONTO

The Chair (Mr. Shafiq Qaadri): Now I'd invite our next presenters to please come forward, Ms. Anglin and Ms. Weigand, who I believe come to us as private citizens. Welcome. I would invite you to please begin now.

Ms. Maureen Anglin: Hello. My name is Maureen Anglin, and this is Lorna Weigand. We are the co-chairs of the Middle Childhood Matters Coalition Toronto and we would like to thank you for this opportunity to comment on this bill.

Mr. Rosario Marchese: Sorry. Middle Childhood what, again?

Ms. Maureen Anglin: Middle Childhood Matters Coalition Toronto. We do have written documentation, if you would like.

The Chair (Mr. Shafiq Qaadri): Yes, please, we'll have it.

Ms. Maureen Anglin: Our coalition did form in 2003 due to our concern about the lack of focus on the critical developmental stages of children six to 12. Our concern was that there was a gap in services for this age group.

Our vision is that Toronto will have a comprehensive, integrated, accessible system of programs and services for all children to enhance their optimal development and to strengthen families.

Our mission is to focus on children six to 12 and their families using a community perspective. We work for systemic change through influencing public policy, advocating, partnership and network development, and supporting best practices.

Our coalition is made up of many of the key players that work with community-based programs within Toronto, and we are also open to membership from parents and other organizations.

We are pleased to see this initiative, which will bring about more collaboration and respect between both the

education and the child care sectors. I'd like to pass it over to Lorna now.

Ms. Lorna Weigand: We are generally pleased with the provincial government creating Bill 242. We would like to speak to part IX.1, extended-day programs. This is the part of Bill 242 that refers to programs for children aged six to 12.

To begin with, we'd like to draw your attention to specific sections in the bill which are of some concern to us. Subsection 259(2) says that, "Subject to the regulations, policies and guidelines made under this part, a board may also operate extended day programs in a school of the board, outside the time when junior kindergarten and kindergarten are operated in the school, for any pupils of the board to whom the board decides to provide the program."

Our concern is: On what grounds could a board be selective about which students could receive extended-day services? For example, could this allow boards to exclude students in special education classes? Could boards decide to only offer this program to children in the primary grades, up to and including grade 3? Could they only provide the program for siblings of kindergarten children?

Our concern about 260.2, which says, "A principal may delegate any of his or her duties under this act that relate to the operation of extended day programs to a vice principal or another person approved by the board": On the one hand, it might seem that supervision of the operation of the extended-day program would be provided by a vice principal or someone of that level. However, we have some concern that this supervisory role could be played by a much less experienced individual if approved by the board.

Our concerns about 260.5(1), "The minister may issue policies and guidelines respecting all aspects of the operation of extended day programs and require boards to comply with them": We would hope that the minister will—not "may"—issue policies and guidelines respecting all aspects of the operation of extended-day programs and require boards to comply with them.

There is some concern about leaving the content and objectives of an extended-day program up to the discretion of individual boards of education. There may be a greater focus on the cost of a program rather than on the benefits of the program to children and their families.

We would hope that guidelines for the program content would address the points made in Dr. Pascal's report *With Our Best Future in Mind*, and that the curriculum for the extended-day programs would be developed with the future of children in mind, ensuring that our children are healthy and secure; emotionally and socially competent; eager, confident and successful learners; and respectful of the diversity of their peers.

We would also like to see how community members, local senior students, parents and grandparents would be incorporated into the extended-day program, either as part-time staff or volunteers, to enrich and support strong community connections between the schools, students and community.

We would like to be assured that existing community-based programs can be extended and supported rather than replaced.

In Minister Dombrowsky's introductory statement in the Legislative Assembly on February 17, she stated that the return on public investment for young children is at least seven to one. We believe it would be valuable for the future of the extended-day program if the province could support further research on the particular aspects of public investment in children that provide the greatest returns. We believe that parents and the public in general would be interested in this research and that details about this research would further support this extended educational initiative.

We would also like it noted that since most of the costs of the extended-day program seem to be funded by parent fees, the extended-day program constitutes a significant parent investment rather than simply a public investment.

The next section that we want to refer to is subsection 264.1(1). Although this section refers to planning for and providing education to pupils in junior kindergarten and kindergarten, this section does not clearly indicate who will be responsible for planning the content of extended-day programs. We feel that in order for the extended-day program to contribute to the healthy development of children ages six to 12, planning for the content of these extended-day programs will be just as important as the planning for the junior kindergarten and kindergarten full-day learning. Therefore, we would like to see this planning responsibility specified in the legislation.

Finally, we understand that 2015-16 has been set as the target date for full-day learning to be available in all elementary schools in Ontario. We would like to see a similar target date being set for the availability of quality extended-day programs to be made available for all children ages six to 12 in Ontario communities.

We also believe that consideration should be given to the short title of the act, which is the final note in the act, to ensure that the extended-day programs are fully understood to be a part of this legislation. We might suggest "Full Day Early Learning and Extended Day Programming for Elementary Schools Statute Law Amendment Act, 2010."

Ms. Maureen Anglin: In summary, we applaud the government for committing to the implementation of full-day kindergarten and an extended-day program.

We also believe it is very important that community organizations are involved in the implementation of extended-day programming, as many currently run high-quality community programs for these children.

We are also concerned that there has not been extensive public discussion about the value, purpose and measurable goals of extended-day programming for six- to 12-year-olds. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About 30 seconds or so per side, beginning with Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you. If I could summarize what I heard you say, you support the concept of full-day learning for four- and five-year-olds, and you think it would be really a good thing if at some point in the future we were able to extend that same way of thinking to six- to 12-year-olds.

Ms. Lorna Weigand: Our understanding in some of the reading that we have seen around the bill and within the bill indicates that there will be extended-day programming for children other than the kindergarten children, that it's part of the bill, and that's what we were a little confused with.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Witmer.

Mrs. Elizabeth Witmer: Thank you very much. You've raised some of the same concerns we've been hearing.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. Mr. Marchese.

Mr. Rosario Marchese: Thank you both.

Section 259 says the board "may also operate extended day programs." There's no requirement that they do so.

Ms. Lorna Weigand: That's our concern. It's put in there, but without any teeth.

Mr. Rosario Marchese: Not only without any teeth, but there's no requirement that they do it.

Ms. Lorna Weigand: They're already doing that, so why is there that whole section?

Mr. Rosario Marchese: Are you saying they should be required to provide them?

Ms. Lorna Weigand: Yes.

Mr. Rosario Marchese: Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese, and thanks to you, Ms. Anglin and Ms. Weigand, for your deputation and written submission.

1500

MS. WENDY TEED

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. Teed. Welcome, and we'll have that distributed. Yes, please begin.

Ms. Wendy Teed: Good afternoon, committee members. My name is Wendy Teed. I'm a parent. I have a B.A.Sc. in child studies from the University of Guelph, the human services management certificate from George Brown College, and almost 30 years' experience working with children and families. I currently own, operate and direct three exceptional licensed child care centres in a rural community within the Hamilton-Wentworth region.

My involvement with Bill 242 began June 15, 2009, when I read the just-released document *With Our Best Future in Mind* by Dr. Charles Pascal, Ontario's special adviser on early learning.

The next evening, I wrote a responsive document, citing my immediate concerns with the proposed plan, as the practical application of a myriad of Dr. Pascal's

recommendations had neither been identified nor appropriately addressed.

We all have dreams. With *Our Best Future in Mind* is one of Dr. Pascal's. Can it be realized in the manner that he appears to envision it, with the passing of Bill 242? I believe not. This bill does not provide the detailed support necessary to successfully execute his ideas.

When he stated that "Children are remarkably similar at birth, but by age four, the gaps are already dramatic," I became anxious that Dr. Pascal does not appear to possess a sound knowledge of early childhood development. I then became distressed at the thought that those ideas are to form the foundation for changes to our current education and child care systems.

Dr. Pascal states, "We need a common programming framework for all of Ontario's early childhood settings." Can we not maintain parental choice in child care programming? Should ECEs not have an opportunity to choose to apply their skills in an environment with a philosophy that they truly believe in, rather than one that is mandated by the current government?

What will the role of the teacher and ECE be within this program framework? Will they work co-operatively in the same classroom, given the historic divide between these two disciplines? Although Dr. Pascal assumes that everyone involved will, in the best interests of children, play nice in the sandbox together, this may not be a realistic expectation.

As time moved forward, it became clear to me that (1) the words of Dr. Pascal were to be seen as the key to the direction for change; (2) his plan would have immediate and long-term effects on child care; (3) questions were not being posed publicly; and, sadly, (4) they were even being discouraged.

ECEs were and continue to be directed from all sides to make this work. I am not a person to stand idly by and watch what I see as the destruction of a very valuable system being blindly replaced by another.

My views were then published in the *Hamilton Spectator*. They included:

How can shifting from a class size cap of 20 to an average of 26 be considered a positive step toward the future?

How can a change in ratios be seen as a "pro" argument for full-day learning, or FDL, when it reflects a 1-to-8 or 1-to-10 ratio in a licensed daycare and moves to 1-to-13-plus in a school?

How can managing a group size with an average of 26 JK/SKs be preferable to a maximum group size of 16, 20 or 24, as per the *Day Nurseries Act*, or DNA?

How can anyone realistically expect children, some as young as three years and eight months of age, to function optimally in a school classroom five full days per week?

How can this plan make life easier for busy parents when (1) child care services may only be provided 188 days out of the year; (2) parents of children who are currently bused to and from half-day JK/SK programs and who opt not to participate in FDL will now be

responsible for their child's transportation home or to another child care option, one way daily, Monday through Friday; and (3) parents are being given a ballpark figure for extended programming, or EP, anywhere from \$15 to \$25 per day?

How can this plan, which will initially cost taxpayers millions of dollars, be put into action in a year that has a projected "unprecedented deficit" of \$24.7 billion? The estimated cost of FDL is presented as just shy of \$1 billion annually, but the IMFC states that realistically, \$1.8 billion is the appropriate cost estimate.

Why should taxpayers spend billions to retrofit schools when there are already wonderful licensed early learning spaces currently in operation?

Why is the Ministry of Education adamant that school boards run EPs rather than partner with present services, when a number of school board officials have already publicly stated that they are not pleased with being given this responsibility?

How can Mr. McGuinty boast the addition of 20,000 jobs for ECEs with Bill 242 when we've already seen announced the closing of seven municipally operated centres, plus two after-school programs in Windsor and one YMCA in Brantford, in anticipation of its passing? Sadly, these closures are only the beginning.

As Bill 242 continued to barrel through government processes, I enlightened my daycare parents in a detailed newsletter, asking a number of questions: "Are you aware that although licensed child care services must comply with the DNA, which represents minimum requirements for licensing, the EPs, as a result of Bill 242, will be exempt from the DNA?" The passing of Bill 242 will permit individuals who are not trained in daycare service delivery to be able to do so without meeting the minimum requirements that those who are knowledgeable in this area must satisfy. How are parents going to be assured that quality care will be provided to children accessing the EPs?

I have posed this question to the new early years division and was told by the gentleman on the other end of the telephone that he would "get right back" to me on this. That was many weeks ago, and as I have not been further contacted in this regard, I assume that quality assurance with regard to EPs is not obvious to those actively involved in its planning. Has it even been a consideration? Will you be able to sleep at night not being certain of the answer to that question? Do you recognize that EPs may be staffed by persons other than ECEs? Do you understand that once education takes over the care of children of 3.8 to five years, current licensed child care services may not be able to financially sustain themselves to provide daycare to children from zero to 3.8 years? Do you accept that under Bill 242, 26 children in a JK/SK classroom is an average, and that the actual number of students could be greater? I was witness to a board information session where it was stated that if a child required a space in a JK/SK classroom and there were already 30 students present, this child would not be denied service.

Does the passing of Bill 242 mark the beginning of the implementation of all of Dr. Pascal's ideas, which see education presiding over licensed child care for children zero to 12 years of age, rendering the Ministry of Children and Youth Services, or MCYS, redundant for this purpose? When I have questioned education as to the involvement of MCYS in this process, I've been advised that the ministry is in collaboration with MCYS. To what degree? How often? Answers to these questions are not easily accessed.

Are you aware that the proposed regulatory amendments to the DNA are the direct result of the passing of Bill 242? Do you understand the magnitude of these changes? They will affect ratios of adults to children, age groupings and group sizes, physical plant and equipment, and capacity and private home daycare.

Martha Friendly of Toronto's Childcare Resource and Research Unit states: "If the proposed changes go through, Ontario would be the first province to lower child care standards." Will you be satisfied knowing that you chose to take an active role in reducing the minimum requirements for licensed child care settings?

Mr. McGuinty affirms that FDL will give youngsters "a better chance of finishing high school, going on to post-secondary education and getting a good job." Are these realistic expectations of having children as young as 44 months of age attend school full days, Monday through Friday, with education beginning to take over the entire child care system? Although supporters of FDL would like to have us all convinced that its introduction will yield positive, long-term results, the National Post reports, with respect to longitudinal studies: "In every study, the initial advantages provided by full-day kindergarten diminish over time" and that the debate among experts is "whether they dwindle all the way to zero, or merely to near insignificance."

With the passing of Bill 242, it is expected that 35,000 JK/SK students will partake in FDL this fall. How can this be successfully implemented five months from now when those who are being given this responsibility are publicly stating, "We have more questions right now than answers"?

In March 1996 I began to care for two children in my home, and I now own, operate and direct three exceptional licensed child care centres serving 89 children at any one time aged zero to 12 years. I possess a solid understanding from experience as to the recipe for success in developing and executing superior children's programs. The following ingredients are critical: (1) detailed planning, (2) careful introduction and implementation, (3) ongoing review and reflective practice, (4) modifications based on number 3, and (5) repeating the cycle, ongoing, from items one through four inclusive.

Bill 242 is extremely lacking in all of these components. This afternoon I implore you to decrease the velocity with which this legislation appears to be moving and to seriously consider all the potential effects of the passing of Bill 242 by reviewing in detail all of the issues put forth to this committee. As you address the latter,

please recognize that the effects are far-reaching. For example, there are current licensed child care centres in buildings all across this province where their owners may rely heavily upon the rental income that the daycare service provides. The two of mine presently operating on church property, I anticipate, are two of many.

Understand that the popularity of a licensed child care operation can assist in maintaining the viability of a school to the presence of out-of-catchment students. I believe that Millgrove is not the only community to which this situation applies.

Should you consider amending Bill 242, as proposed to you last week by the YMCA, to allow boards to partner with local, private child care services deemed non-profit, I urge you to recognize that this action will have a detrimental effect on the continuation of exceptional commercial operations such as mine.

To demonstrate that quality child care service is not equated with any financial designation, I have provided for your review in your package today a visual representation of Millgrove's licensed daycare operation and a personal invitation to attend these centres and witness first-hand best child care practice in action. Then you will fully understand, if you do not already, why I strongly recommend that any amendment of this kind should include the ability of boards to "partner with any licensed local child care service" and not just those designated as non-profit.

In closing, at the Sanderson Centre in Brantford, Ontario this past December, I witnessed Dr. Pascal state that "children are one third of our population and all of our future." Our future is now in your hands.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Teed. We have 10 to 15 seconds per side. Probably, on behalf of the committee, I would like to thank you, not only for your deputation but also for your very elegant presentation, which I'm sure we will all read at leisure. Thank you very much for attending today.

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Gilligan, to please come forward. Is Ms. Gilligan present? Is Ms. Mercer available? Is Ms. Rullo available? Ms. Carrol Sceviour?

I think we're going to have to recess the committee for 10 minutes.

The committee recessed from 1504 to 1505.

CITIZENS COMMISSION ON HUMAN RIGHTS

The Chair (Mr. Shafiq Qaadri): The committee is back in session. I will now invite Mr. Dobson-Smith of the Citizens Commission on Human Rights. I invite you to begin.

Mr. Robert Dobson-Smith: My name is Robert Dobson-Smith, and I'm the president of the Citizens Commission on Human Rights in Canada. Thank you for the opportunity to present our concerns today. I will be

bringing up some matters that have not been addressed thus far.

In a Toronto Star article dated June 15, 2009, Charles Pascal was quoted as saying that up to one quarter of Ontario children arrive in Grade 1 severely behind their peers while another 30% have difficulties that have not been identified. While we support practical educational solutions, we are also concerned that today's trend for dealing with these types of concerns has become the medication of our youth. We spoke with a teacher in Toronto who is concerned about these children being in full-day kindergarten and daycare becoming "institutionalized."

More than 20 million children worldwide are labelled with a psychiatric disorder that no diagnostic test can confirm. Prescribing psychotropic drugs for a disease that doesn't exist, neurologist Sydney Walker III wrote in *The Hyperactivity Hoax*, is a tragedy because "masking children's symptoms merely allows their underlying disorders to continue and, in many cases, to become worse."

Informed consent has two components: knowing what is actually wrong with you and knowing the positive and negative effects of any remedy that will be used to address the correct medical diagnosis. In a letter from a prominent Toronto constitutional lawyer, we were told that "lack of an informed consent constitutes a criminal assault and a civil battery." The parents need to be made aware that they should seek a full medical exam before any psychiatric remedy is undertaken.

1510

According to Dr. William Carey, a highly respected pediatrician at the Children's Hospital of Philadelphia, "The current ADHD formulation, which makes the diagnosis when a certain number of troublesome behaviours are present and other criteria met, overlooks the fact that these behaviours are probably usually normal."

We had a concerned parent of a child come to us after the school had sent her a letter indicating her child needed to be assessed. Among the behaviours listed as problematic were snowball throwing, jumping from tall equipment, sliding on ice and running in the hall. Joe Turtel, author of *Public Schools, Public Menace*, tells parents, "What child does not have ADHD? Having to sit in boring classes for six to eight hours a day, what child would not want to squirm, fidget, run around, not pay attention or escape any way that they can? These are the kinds of things that normal, energetic children want to do when they are bored or frustrated, as any mother will tell you."

Dr. Mary Ann Block, who has helped thousands of children safely come off psychotropic drugs, says, "Many doctors don't do physical exams before prescribing psychiatric drugs." Children see a doctor, but the doctor does not do a physical exam or look for any health or learning problems before giving the child an ADHD diagnosis and a prescription drug.

This is not how I was taught to practise medicine. In my medical education, I was taught to do a complete history and physical exam. I was taught to consider all possible underlying causes of the symptoms.

In September 2005, the Oregon Health and Science University Evidence-Based Practice Center published a review of 2,287 studies—virtually every study ever conducted on ADHD drugs—and found that no trials prove the effectiveness of these drugs. There is a lack of evidence that they could improve academic performance, risky behaviours, social achievements etc.

In February 2006, the Food and Drug Administration's Drug Safety and Risk Management Advisory Committee urged the FDA to issue its strongest "black box" warning for stimulants because of the risk of heart attack, stroke and sudden death. This was among young children. In August, the FDA ordered stimulant manufacturers to strengthen their labelling to warn that the drugs can cause suppression of growth, psychosis, bipolar illness, aggression, and heart attacks and strokes.

An August 2001 study in the *Journal of the American Medical Association* concluded that Ritalin is chemically similar to cocaine. Nadine Lambert, Ph.D., professor and director of the school psychology program at the University of California, Berkeley, conducted a study of adults who took stimulants when they were children. Lambert found that these children were more likely to start smoking or using cocaine and to continue these habits into adulthood. She believes children's brains become sensitized to stimulants, and this sensitization predisposes the children to later cocaine abuse.

A mother from Toronto called our office regarding her concern that her child was diagnosed with ADHD. She felt that he was normal, but he had been prescribed Ritalin. She went to the pharmacy. When she asked for the compendium to see the drug reactions, she decided not to give it to her six-year-old; she was very concerned about that. Instead, she gave him a vitamin C tablet before he went to school each day. The teacher would ask the child if his mother had given him his pill and he would reply, "Yes." After three weeks, the special education teacher and the principal called the mother and said that he was doing so much better on the medication.

There's quite an incentive to have children assessed and diagnosed with conditions. We deal specifically with cases which we consider to be psychiatric abuse cases where there has not been a proper medical examination done and there has not been a proper assessment. When these are undertaken with a competent physician, usually many other things are wrong with this child, from anemia to being a genius.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dobson. A minute per side, beginning with Mr. Marchese.

Mr. Rosario Marchese: Thank you very much for the presentation. I'm not sure how it connects to what we're—

Mr. Robert Dobson-Smith: It does connect to section 12.1. You have criminal risk involving children. The criminal risk here is the fact that in the school system there is actually quite a bit of pressure that's brought to bear on parents to—

Mr. Rosario Marchese: Yes, I appreciate it. I just want to tell you that you raise a lot of good points here. It

would be great if we had a proper forum for these discussions because I actually agree with much of what you say in this paper, and it's unfortunate that this may not be the appropriate forum.

Thank you very much. We agree. Hopefully it will come up again in other discussions, because we should be dealing with that as well.

Mr. Robert Dobson-Smith: Okay. Do you think you could maybe initiate a forum? I think it's very much needed. A lot of—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Mr. Flynn?

Mr. Rosario Marchese: I hear you and I agree.

Mr. Kevin Daniel Flynn: Sir, just so I understand, the Citizens Commission on Human Rights Canada exists on its own now?

Mr. Robert Dobson-Smith: Yes, it's a separately incorporated entity in the province of Ontario. It was originally established by the Church of Scientology in 1969.

Mr. Kevin Daniel Flynn: But now it operates on its own.

Mr. Robert Dobson-Smith: Well, no. We are a separate entity in this province, yes.

Mr. Kevin Daniel Flynn: I'll tell you, I appreciate the input. Certainly some of the things that we've heard around the province as I have been travelling with the Select Committee on Mental Health and Addictions would back up some of the things. So I'll make sure that this is transferred to that committee and that they get the full advantage of reading this as well.

1520

Mr. Robert Dobson-Smith: We actually have some DVDs there that are extremely informative and that provide a lot of information.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer.

Mrs. Elizabeth Witmer: I appreciate your presentation. Are you concerned about the impact of full-day learning, that more children are going to be labelled?

Mr. Robert Dobson-Smith: Yes. We've spoken to teachers we know, and they have told us that when you have a child who has been in school for 10 or 12 hours a day—some of these kids are going to be dropped off at 7:30 in the morning and picked up at 6 o'clock at night—they're going to be running around like—especially after their naps, they'll be doing lots of things. Notes will be taken, and assessments evolve from these notes, as we've looked through school files. Over the last 30 years of the cases that we've handled, you always find that the notations begin in kindergarten, and then by the time they're in grade 1, they're assessed with ADHD or something, and then they start being medicated—or even earlier, because the College of Physicians and Surgeons at one point said that they're able to medicate anyone now regardless of the fact that the drugs were not recommended by the pharmaceutical companies for anyone under the age of six. But they said, "Well, we think"—

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Dobson-Smith, for your deputation and the DVD, as well as for coming forward earlier than scheduled.

I'd now invite our next presenter to please come forward: Ms. Gilligan, if you are here. If not, Ms. Mercer? Ms. Rullo? Ms. Kelly and Ms. Sceviour? Ms. Hermiston?

JACKMAN COMMUNITY DAY CARE

The Chair (Mr. Shafiq Qaadri): Is anyone here from the Jackman Community Day Care? Please come forward, Ms. Spreitzer, Ms. Atkinson and Ms. Deschamps. You are testifying, I guess, an hour and a half earlier than scheduled.

As you've seen, you have 10 minutes in which to make the full presentation. The time remaining will be distributed evenly amongst the parties. I'd invite you to please begin now.

Ms. Mary Deschamps: We're from Jackman Community Day Care, which is in the Broadview and Danforth area.

The Chair (Mr. Shafiq Qaadri): If you could just identify yourselves individually as well, please.

Ms. Mary Deschamps: My name is Mary Deschamps. I am a mother. I'm also a grandmother. I also have the legal guardianship of my five-year-old granddaughter, who goes to both Jackman Community Day Care and Jackman school. She's five years old, and she has been with us since she was a year old.

I used to walk by Jackman on the way downtown to my very busy and very important job down at Bay and King and didn't think very much about Jackman, except that it was brick and mortar and was part of our wonderful community. My life has changed a lot since then.

My life has changed so dramatically, and so has my view of the school. I'm now semi-retired. I'm on the daycare board, and I'm passionate about the type of learning and cultural environment Annika will have. I'm enthusiastic about Dr. Pascal's vision of the school as the central hub for families. In my opinion, there has always been too much fragmentation with all the community agencies and institutions working very diligently, very hard, but in their deep and closed-off silos.

I would also like to mention that I have over 25 years as the most senior human resource person within several large organizations. In many ways, what is happening to our current daycare is analogous to a corporate merger. When mergers fail, it's because they have inadequate preparation, the communication is woefully weak or non-existent, rumour vines runs rampant, and the acquired company—which, in our opinion, or the way we think of it, is the current daycares that are being acquired—we have concern that they will be treated shabbily with little or no concern for their welfare.

Please allow me to describe Jackman Community Day Care in numbers. We have 130 children in total, with 24 of those children in kindergarten. There are approximately 300 children on our waiting list. There are 10

early childhood educators with an average tenure of 8.6 years, with the longest-serving ECE—early childhood educator—having 19 years of valued service to our children.

With that preamble, please allow me to list my concerns:

(1) Please don't throw out the proverbial baby with the bathwater. This daycare has existed for 25 years. It is highly valued and has deep and abiding roots in my community. It is completely integrated within the school structure. Yes, obviously, from an organizational viewpoint, the JK/SK needs to be centralized under one management, the principal of the school, but why do we have to totally dismantle a functioning, working, excellent example of daycare integrated into the schools?

(2) Why can't the principal work with our daycare to employ those staff that he would like to retain? Why do these valued daycare professionals have to go beg for their job in a long queue of other early childhood educators? They're part of our community, and we want them to be treated well.

(3) Who is going to fill the quality care our children need for preschool, lunch, post-school, PA days, school vacations including Christmas, March break and summer? Bill 242 does nothing to guarantee full-time coverage for working parents. Surely there must be some way to use the existing daycare staff to work in coordination with the TDSB to fulfill the need of our families for quality daycare within our school.

(4) Our principal works long days now, and he will have the responsibility for taking on this new venture without any clear strategy for the successful management of it. We have two full-time administrators for our 130 children. I'll say that again: two full-time administrators for our 130 children. These two women are smart, qualified and educated. They ensure that our daycare is well managed. Again, why are these terrific people not being considered as part of the plan to not only ensure an effective transition to the new system, but to also provide administrative support for the ongoing success in our school?

(5) Last but not least, there's abundant concern about how the early childhood educators will be treated once the whole new venture is up and running. We want them to be a full and equal partner in the management of the new full-day learning. Our ECEs have a great deal of skill to complement the teachers' knowledge. Please ensure that they are not relegated to the "support-the-teacher" position, wherein they are the ones solely responsible for bathroom breaks—of which there are many—cleanup, and yard duty. This will require a great deal of attention by those charged with the success of this new and extremely exciting venture.

Ms. Katrina Atkinson: I'm Katrina Atkinson, and like you, I wear many colourful hats. Hat 1: I'm mama to my five-year-old, Emma. Hat 2: wife to a busy corporate and securities lawyer. Hat 3: practising mixed-media artist. Hat 4: I'm honoured to wear the president's hat in my service, along with a dynamic team of parent

volunteers and management, to the board of directors for the highly regarded Jackman Community Day Care.

I am grateful to briefly share, on behalf of our daycare membership, the following three scenarios we are currently exploring in response to Bill 242.

Scenario 1: We relocate. Full-day learning at Jackman will see the end of our time within the school. Where do we go? We'd have to adjust our services to care for infants up to three years. We'd need appropriately trained staff. Would our current staff follow, would they retrain or take a pay cut? Costs: Would there be grant monies for this? Do we have such funds, and should we be setting up a contingency fund?

Scenario 2: We close. When is the opportune time? The effect on our families: What options will they have? If rumours of possible closure spread, will parents leave early? How will this affect the daily running of our centre? Staff retention bonuses: What are they based on, and can we afford them if families leave? Should we create a retention fund now? Can we help our staff secure new positions? How can we ensure that our ECEs are treated fairly and with dignity, and that unions recognize the seniority of our ECEs who have been working in early child care for their entire careers?

Scenario 3 would be ideal: We partner with Jackman public school in delivering full-day learning. Can we get detailed reports from other schools in the community, describing their full-day learning experience in order that we plan accordingly? To address space issues, should we be lobbying for an extension to Jackman itself? How can we maintain our current staff, since they are integral to maintaining the community we've worked so hard, over many years, to build? Are grants available to aid with this transition?

In closing, the verbs "link" and "integrate," along with "community," figure largely in the descriptions and explanations that detail the thinking and process in which full-day learning, according to the recommendations of Dr. Pascal, is to be realized, starting this very September. We started thinking and planning long ago and are really worried about the grave lack of information and communication our community has received thus far. Full-day learning is not to be a politically driven or union-sanctioned endeavour, but an authentic one, where real people are challenged to be genuine in their efforts to work together to unite our existing child care communities. It is this approach that we embrace.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We have about 30 seconds or so per side, beginning with Mr. Flynn.

1530

Ms. Donna Spreitzer: Is there time for—what's the time?

The Chair (Mr. Shafiq Qaadri): Yes, you have two and a half minutes or so.

Ms. Donna Spreitzer: Okay. That's what I was hoping.

The Chair (Mr. Shafiq Qaadri): Please, go ahead if you have more remarks.

Ms. Donna Spreitzer: Thank you. My name is Donna Spreitzer, and I have been the executive director at Jackman Community Day Care for seven years. Non-profit child care has been the backbone of child care in Ontario. For decades, non-profit child care has been the primary provider of quality care.

This bill has the potential to completely destroy non-profit child care already located in schools. The bill makes clear that school boards would not be able to contract out to existing partners; they may only contract out to other boards. But Jackman Community Day Care has been a successful partner for 25 years. What is the point of dismantling an already-existing integral part of the community, if only to replace it with something that is, on paper, similar, but in reality, altogether different?

My major fear of Bill 242 is that it will effectively force our daycare to shut its doors. All of my staff, staff who have put their hearts and souls into feeding the mouths and minds of children at Jackman school, will be forced to work elsewhere. If they do choose to work for the school board, I've been told it's unlikely that they'll ever be placed back at Jackman. If they choose to work as an ECE outside of a school, they will have to retrain to work with children aged zero to three at a substantial pay cut as compared to the union counterparts working at the school board. This two-tiered ECE phenomenon will create a much-divided profession.

Our recommendation is in keeping with Charles Pascal's report, where he states unequivocally that "non-profit providers ... may continue to operate licensed child care in accordance with current program standards" and that school boards will be able to contract out with community partners. I see no provisions in Bill 242 that will allow our ECE staff to transition into full-day learning while still being employed at Jackman Community Day Care. I see no ability for our daycare to continue to provide before- and after-school care for Jackman families. We will not be able to continue to operate.

We support school-based child care in all schools, but please don't needlessly reinvent the wheel. I urge you to utilize existing child care centres. In schools that don't yet have child care, then by all means, let school boards start and run them. But leave child care in the hands of the already-existing community partners. To do otherwise will completely undermine existing child care centres and ultimately see their demise and a downfall of non-profit child- and family-centred daycare throughout Ontario. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, ladies, for your precision-timed remarks. I thank Ms. Spreitzer, Ms. Atkinson and Ms. Deschamps for coming forward on behalf of Jackman Community Day Care centres as well as for coming forward earlier than scheduled.

TORONTO COALITION FOR BETTER CHILD CARE

The Chair (Mr. Shafiq Qaadri): Are there any individuals who are scheduled to testify before the social policy committee, who have not already done so, here?

Interjection.

The Chair (Mr. Shafiq Qaadri): Yes? And you are?

Ms. Jane Mercer: Jane Mercer. I'm scheduled at 3:40.

The Chair (Mr. Shafiq Qaadri): Please come forward. Welcome, Ms. Mercer, and I invite you to please begin now.

Ms. Jane Mercer: Good afternoon. Thank you very much. My name is Jane Mercer. I'm the executive coordinator of the Toronto Coalition for Better Child Care. We are a network that supports close to 20,000 families in non-profit child care programs across the city of Toronto. Our members also include licensed home child care providers, family resource programs, welfare agencies and children's services organizations. Thank you for giving us all the opportunity to speak to your bill this afternoon.

We applaud your government's initiative to move forward with early learning in Ontario. This is long overdue; Ontario has lagged behind several other provinces in Canada and many European countries. But now, we hope, we are moving forward for children and young families in a manner that can make Ontarians proud.

We know and you know that it would be ineffective and a colossal waste of taxpayer dollars to simply plunk a new program such as early learning for fours and fives on top of a mix of other early learning programs. We must bring all the programs that currently exist into a child and family service system that closes the gaps and offers a continuum of services for children from birth to age 12 and ensure that they all flourish.

We urge you to keep an open mind as you listen to the ideas put before you on how best to deliver early learning in Ontario, including a full and extended day and strong child and family centres that really meet the needs of our diverse communities, communities such as our aboriginal communities, our high-needs communities, our new immigrant communities and so many for whom the conventional school approach is just not working.

During the last provincial election, Dalton McGuinty promised full-day learning for fours and fives. He promised us that full-day learning would be new money; that the child care sector would keep any savings that arose from implementing full-day learning; that full-day learning would free up spaces for younger children; and that full-day learning would make child care more affordable for younger children. Dr. Charles Pascal provided a road map for your government to use to build a comprehensive system of early learning and care that does all of these things. You have heard voices from every corner of the province that have supported an integrated, comprehensive system of early learning and child care for all Ontario children, from infants to 12 years of age.

Our concerns, which we know you have also heard from around the province, arise from the fact that so far, this government is only moving forward with one piece of the vision. Now, we know that you have to start somewhere; we appreciate that. But this limited piece is actu-

ally putting all of our other services for children and families at risk.

Our learning and child care system is so vulnerable. Early learning and child care has gone 15 years without an adjustment for inflation. Pay equity payments in the proxy sector just stopped being funded in 2006. The vast majority of our child care programs are not able to give their child care staff a pension, no matter how many years they've worked, and now, full-day learning for fours and fives is going to be one more funding pressure that could very easily be the last straw.

Please let me reiterate: We know that this is a new program and we know you have to start somewhere, but we cannot afford to lose one dollar, one child care space or one child care subsidy, not when we already have thousands of parents who desperately need the care for their children and just simply can't find a space or can't afford it.

In Toronto, parents pay \$10,000, \$12,000, up to \$18,000 a year for a child care space. Our waiting list for child care subsidies, currently around 16,000, is going to soar with the demand for new early learning programs. Thousands of parents already cannot find a space in child care, yet centres are going to close.

As you move forward, you have to make sure that it is part of a much broader, comprehensive package that really supports families and early learning for young children. Failure to do so will actually not build you an early learning system for fours and fives that you can be proud of. Instead, it will decimate the existing child care system that we have. Instead of getting more children into quality care, we will have fewer children with access.

We really want to commend the Ministry of Education's early years division for their hard work in the past six months and in the first six months of their existence. We know they have been creating not just a new program, but a new division. They have been communicating with the school boards, the municipalities and the community. And even if you don't have all the answers, we believe you've been listening.

To the Ministry of Children and Youth, we want to say that we know you have the very difficult job of trying to hold the pieces together in this child care sector and that that can be much harder than building something new. But is there nothing that you could say to reassure your very scared municipal and community partners who are reeling with the insecurity and uncertainty brought on by full-day learning? The silence has been nothing short of alarming. You could hear a pin drop, and you will certainly hear every single time a child care program closes.

We urge you to ensure that both ministries are working together towards a comprehensive system of early learning for children from zero to 12 that builds on the great programs that we already have and gives Ontarians an early learning system we can all be proud of.

Can you tell me my time?

The Chair (Mr. Shafiq Qaadri): You have about three minutes and 20 seconds left.

1540

Ms. Jane Mercer: I'm good.

These are our recommendations:

(1) The program must be funded properly, right up to 6 o'clock, enough for a high-quality program with fair remuneration for all staff and full-time jobs across the sectors.

(2) You must provide more subsidies so that the thousands of fours and fives who will want and need to access the extended day are not denied access and left languishing on yet another waiting list, and so that the younger children don't actually get less access to child care as subsidies are sucked up by fours and fives and our child care programs flounder and fold.

(3) You need to feed the children throughout the day, because all the research tells us that children can't learn—they can't even behave—when they're hungry. We know that too many families in this province are not able to provide a healthy lunch and nutritious snacks to last a four-year-old for 10 hours, and to expect that four-year-old to manage her own food—her little lunch and her couple of snacks throughout the day—is totally unreasonable and uncaring.

(4) Run all of your early learning programs from 7:30 until 6 for 52 weeks of the year, because working parents do not get 12 weeks' vacation.

(5) Provide the resources to ensure that all your early learning programs, including the extended day, are inclusive programs and welcome children with special needs, allowing them to reach their full potential.

(6) Protect the space in our schools currently occupied by early learning and child care programs and make sure that the school boards have the capacity to make that space available free of charge. These programs are a vital component in a successful early learning system, and in Toronto, we are coming horrendously close to losing some of them as a result of rents charged by schools.

(7) Earmark more space to ensure that every school with an early learning program and extended day has the capacity for a new child and family centre in the future.

(8) Move towards base funding for non-profit child care centres so that child care fees do not skyrocket as the fours and fives leave.

(9) Provide capital funding to allow schools to expand without squeezing out early learning and child care centres and to allow our child care programs to renovate for younger age groups.

(10) Provide the transitional funding to see that the early learning and child care sector through this time of significant change is able to modify their programs and survive another day.

Those are our top 10. Thank you, and good luck. We know that together, we can build Ontario a tremendous early learning system. We look forward to working with you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mercer. On behalf of the committee, I'd like to thank you for your deputation today on behalf of the Toronto Coalition for Better Child Care.

ONTARIO MUNICIPAL SOCIAL SERVICES ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, if they are available: Ms. Rullo of the Ontario Municipal Social Services Association.

Ms. Stephanie Rullo: I'm Ms. Rullo.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Rullo. Just before you begin, is Ms. Gilligan present? Fair enough.

Please be seated, Ms. Rullo, on behalf of the Ontario Municipal Social Services Association. Welcome. You've seen the protocol. I invite you to please begin now.

Ms. Stephanie Rullo: Great. Good afternoon. My name is Stephanie Rullo and I am here representing the Ontario Municipal Social Services Association on behalf of our executive director, Kira Heineck, who unfortunately became ill today.

The Ontario Municipal Social Services Association represents the 47 consolidated municipal service managers and district social service administration boards from across the province who are responsible for managing and administering human services throughout the province. Our association promotes policy development and program delivery in the areas of early learning and child care, employment support services, income assistance, social housing, and homelessness prevention.

As government partners with the province, OMSSA and the municipal service system managers whom we represent are pleased to present here today our support for Bill 242, which directly reflects our belief that investing in the people of Ontario makes sense. Ontario's new early learning program, which Bill 242 will help to bring to reality, is one such investment.

We generally support Bill 242 because it facilitates an important step towards giving our children the opportunity to succeed and providing parents with more opportunities to enter the workforce while their children are in quality early learning environments. We support this bill because it facilitates an important step toward creating a strong and healthy social infrastructure for our province.

As the provincial association for municipal service system managers for early learning and child care and as the Ministry of Education's clearly identified planning partner in this new prenatal-to-12 child and family service system, OMSSA supports the new direction for school boards to provide full-day-learning programming for four- and five-year-old children in every school for the standard 9 a.m.-to-3:30 p.m. school day and a standard 10-month school year. We also support subsection 259, which requires boards to operate extended day programs for pupils enrolled in early learning programs.

We support the language that now allows the provincial government to enter into financial agreements with municipalities to enable fee subsidy funding to flow properly from the Ministry of Education to municipal service managers and to families, and we support the new

articulated role for the early childhood educators within early learning classrooms and within a school board structure.

We urge the provincial Legislature to pass Bill 242 into law to allow municipalities and school boards to continue their collaborative work on behalf of children and families in Ontario.

Looking ahead, OMSSA would like to take this opportunity to outline some of our current considerations for this committee and the government looking forward to the implementation of full-day learning in Ontario. Our submission explores this area in depth, and I would like to raise a few of our key points here today.

The early learning adviser's report articulated a clear service system management role for our municipalities in a new prenatal-to-12 child and family service system. Nothing in Bill 242, however, formally enshrines the service system management role, and we strongly recommend that the legislation be amended to formally recognize municipalities as service system managers. We ask for this amendment because despite the best efforts of the Ministry of Education to recommend to school boards to work closely with municipalities, our experience at the local level shows uneven collaboration between school boards and municipal service managers.

There's a differential experience across Ontario because a municipal role is not established in legislation and collaboration is not mandated. There is no duty to co-operate among municipal service managers and school boards like there is among teachers and early childhood educators.

OMSSA can play an important role in assisting in communities where collaboration is not coming as easily. We propose to work with the Ministry of Education to identify and share best practices across communities and are happy to work with school board associations. Solidifying this relationship in the legislation will ensure there is a clear direction for long-term partnership between school boards and municipal service managers and allow community planning processes to proceed more smoothly and consistently across the province.

Bill 242 legislation allows the government to enter in financial agreements with the municipalities to enable fee subsidy funding to flow properly from the Ministry of Education to municipal service managers and to families. We strongly believe municipal service managers and only municipal service managers should be given responsibility for the administration of fee subsidies for the extended day portion of the early learning program. Municipal service managers are unmatched in experience and expertise in administering fee subsidies for families in need. While the proposed legislation refers to other parties who might be eligible to administer the subsidy program, we believe this language should be amended to restrict fee subsidy administration to municipal service managers alone.

OMSSA supports the requirement of subsection 259(1) that boards must provide extended-day programming. We also note that subsection 259(2) permits boards

to operate extended-day programs for other pupils of the board. OMSSA believes this language in these sections must be strengthened to make mandatory the extended-day programming for all children ages four to 12. Providing the extended day for all children will be more cost-effective and allow some of the hurdles of providing it only for four- and five-year-olds to be overcome.

We further ask that the language of the legislation be strengthened to mandate all boards to provide full-day programming for the entire 12 months and not just for the 10-month school year. Providing a full year of programming makes logistical sense for parents and children and financial sense for boards.

Our final point focuses on the complete absence of policy direction about children with special needs and how these needs will be accommodated within the early learning program. Nothing in Bill 242 speaks to the obligation of boards to provide services to children with special needs, yet this program is set to begin in a few months. Support must be in place by September 1, 2010. This is not a detail that we can afford to let unfold as full-day learning begins. How will school boards support children with special needs? Will the array of community services that these children currently receive through their child care centres be similarly available in school-based learning programs? Will school boards have to draw on their already overextended internal resources?

1550

There must be clear articulation about the requirements to serve children with special needs. It is incumbent upon all the relevant ministries—education, children and youth services and health and long-term care together—to develop a clear policy and funding framework for ensuring that children with special needs are appropriately served within the new early learning program. In particular, we emphasize that there must be clearly mandated expectations for school boards to provide the same level of services as children receive in community-based child care settings.

It will be unfair for children to lose the opportunity to receive services just because they are in a school during the day. It will be unfair for families to have to choose between non-school-based child care, where they know they will receive special needs services, or a school-based early learning program, where the service capacity is uncertain. Without such clarity and without sustainable resourcing for school boards and community agencies to provide these services, our most vulnerable children will lose out on the opportunity to grow and learn in early learning programs. The result will be an inevitable segregation of special needs children in non-school-based child care settings and out of the school-based early learning programs.

We further note that children with special needs will require support during the extended portion of the day, as well. A contradiction arises, however, because of the differential language in Bill 242. While all children have a right to attend the school-day portion of early learning, no such right exists for an extended day. Again, there is a

legislative and policy vacuum where these children are concerned. The imperative must be for continuity of care for the most vulnerable children in our communities for the entire day. We urge all parties involved—the Standing Committee on Social Policy, the ministries of education, children and youth services and health and long-term care—to ensure that all children are supported in this new world of early learning.

In conclusion, our support for Bill 242 must be framed by the clear recognition that Bill 242 is an important step, but just the first step. The prenatal-to-12 child and family service system is far bigger than just four- and five-year-old children attending these new programs next year. Only 15% of these children will even be eligible for early learning this fall and, in the long term, thousands of children from age zero to three and their school-aged siblings will remain in some form of non-school-based care.

The permanent addition of the \$63.5 million in last week's budget is welcomed and will ensure that subsidized child care spaces as well as funding for special needs children continue. As we make the transition to full-day learning, we remind the committee that all children and parents must be supported with sustainable funding that allows them to choose their early learning and child care experiences.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Rullo. I'd like to thank you on behalf of the committee for your deputation on behalf of the Ontario Municipal Social Services Association.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Shafiq Qaadri): I understand that representatives of the Ontario Federation of Labour are present. You are welcome. Please come forward. Yes, we'll distribute copies of your remarks, as well. Welcome, Ms. Kelly.

Ms. Carrol Anne Sceviour: Unfortunately, Ms. Kelly has been held up—

The Chair (Mr. Shafiq Qaadri): And Ms. Sceviour.

Ms. Carrol Anne Sceviour: Sceviour—very good.

The Chair (Mr. Shafiq Qaadri): Merci. You have 10 minutes in which to make your presentation. Please begin.

Ms. Carrol Anne Sceviour: I'd like to thank this committee for allowing us to present today. I know for the past three days—two days last week and today—you've heard from a number of organizations and they have highlighted support for Bill 242, but also concerns around strengthening the legislation, in particular from our affiliated unions, the teachers' federations, as well as the Canadian Union of Public Employees and our community partner, the Ontario Coalition for Better Child Care. We certainly support all of their recommendations.

I'm not going to read this. As a Newfoundlander, I can speak very quickly, but I chose not to do that today. What I want to do is focus on two particular aspects of concern that the federation has.

One is on the seamless day/seamless year, and the financial support and where we believe school boards should be directed; as well as the whole issue of fair wages and pay equity obligations for ECEs.

This is really an exciting time for Ontario, a very exciting time, as we move forward to begin to build the foundation of what we hope will become a very stable early learning and care system in this province. Frankly, we want it done right, because we all know that as we bring in new systems, if you go off track, it's really hard to get back on the track again.

When we talk about how we're going to bring about early learning and care within the school system, we have always believed in the vision that it would be a seamless day, that children would come to the school at 7 or 7:30 and leave the school at 6. There will be a core part of that day, and then the other part of the day will be addressed by ECEs in terms of learning through play.

One of the things that we have been hearing, and we are gravely concerned about, is a lobby that has been arguing that school boards should have the ability to opt out of delivery of extended day. This is so wrong, to do that. It is wrong for kids; it is really bad for parents; it's bad for the workers; and frankly, it is bad for the creation of the system that this province needs: a stable system.

If you contract out to a third party, what you would impinge on is that need for children to have a greater sense of security, belonging and a place. It is that sense that both children and parents need.

The other thing is: When children are within the school system, within that seamless day, the extended day, it would improve conditions for learning and in a comfortable, familiar, safe environment. I'm sure that some of you in this room have had the experience of having a four- or five-year-old, be it your own child, nephew, niece. When you keep moving them about, it is extremely upsetting for them, and it is just not conducive for the environment that we want for kids.

The other concern we have—a number of concerns, actually, in terms of contracting out to a third party—is that you undermine the coherence of early learning and care programs. You add a whole other layer of fragmentation, which is the very thing we're trying to move around. When you're talking about building a system, you can't add another layer of fragmentation to our already fragile network.

There would be no requirement—certainly, we haven't seen, in the context of what's being proposed by the parties lobbying for this—for the third party provider to adopt an early learning program, nor is there any structure for communication between staff in the early learning program and staff of the third party provider.

We would argue that if you do this, you actually create another class of precarious workers, where ECEs will be asked to work split shifts as well as part-time work.

The third, really key issue is—well, it's more than third; it's probably the fifth issue. One of the difficulties we've already identified is the retention issue within the child care system. If, by any stretch of the imagination,

you think that qualified, trained ECEs are going to stay in a precarious situation, you're wrong. What it's going to create is in fact a revolving door, as ECEs look for more stable employment.

We state in the strongest terms that such a provision of contracting out to a third party of the extended day is bad for kids, bad for parents and bad for workers. It would undermine the government's full-day learning program even before it gets off the ground.

On the issue of direction to school boards, this legislation should ensure that full-day learning is an all-day, year-round program delivered by the school boards. School boards should be obligated to provide hot lunches and snacks. Class sizes should be capped at 26 and not have that as an average class size. There should be confirmation that there will be two staff in extended day programs, as well as assurance that, whenever possible, early childhood educators receive full-time employment.

The other point I want to raise is the issue of pay equity and fair wages. One of the things that we would strongly argue is on the wage rate that had been identified in the operating funding of ECE wages starting in this sector at \$19.48. We believe that, in fact, it would not be pay-equity-compliant, which is a requirement under the act. If you look at school boards that have already done pay equity plans, where they already have classifications for ECEs, those wage rates are around \$25 an hour, so to establish a wage rate of \$19.48, I would argue, would not be pay-equity-compliant.

The other area I want to raise is the recent budget. Frankly, we're very pleased that within the budget, in the context of the wage freeze, the government identified that it cannot opt out of pay equity or human rights obligations. But at the same time, you are identifying that those obligations are there or set by law, and you cannot negate them through a wage freeze. At the same time, you are obligating school boards to live up to their pay equity obligations, but no funding is following that. What we have grave concern about is that school boards, in order to keep up not only with pay equity obligations but also implementing this program, will take from other budget lines and bring it into this program. It has never been the vision of this government, it hasn't been the vision of opposition parties, and it certainly hasn't been the vision of child care advocates that you take from one child and give to another.

As we build a system, it is critical that we provide the monies that are needed to build that system and build it right. We have never argued that this system has to be created overnight, because it can't be; there has to be a transitional period. That is why the government, when it brought in its early learning and care program, in fact, spread it out over a number of years.

As we move forward on this, there are a couple of things I want to say. First of all, I want to acknowledge the importance of the investment that the government gave in the last budget, of the \$63.5 million. It was absolutely critical for community- and municipal-based child care so that, quite frankly, the floor didn't fall out

from under the feet of those parents and those children. When we move forward, the Pascal report is a fantastic road map, but we have to follow that road map. We can't just choose one particular part of it. If we're going to build a system that is good for children, good for parents, good for the workers in that sector and, we would argue, good for the economy of this province, then we have to move forward in a holistic approach. We can't take from one section and put that other section, be it subsidies—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Sceviour, for your deputation on behalf of the Ontario Federation of Labour. On behalf of the committee, we appreciate your presence.

Are there any other individuals who are scheduled to testify before our committee here present: Ms. Gilligan, Ms. Hermiston, Ms. Xuereb?

Committee is recessed for 10 minutes.

The committee recessed from 1559 to 1628.

MS. MICHELLE XUEREB

The Chair (Mr. Shafiq Qaadri): Committee is back in session. We have our next presenter. I'd invite Ms. Michelle Xuereb to please come forward. You'll have 10 minutes in which to make your presentation, and perhaps some time for questions remaining afterward. We invite you to please begin now.

Ms. Michelle Xuereb: My name is Michelle Xuereb. I'm a mother and a working professional.

I have a three-year-old daughter who attends Junction Day Care, which is in Annette public school. This is a daycare that has been running successfully for 30 years now. Right now, it provides care to about 90 children, two and a half to 12 years of age.

The all-day learning program, as it's outlined presently in Bill 242, will have an enormous impact on our child care centre, possibly causing it to close at a time when we know there's already not enough affordable, accessible care within our community.

We'd like to start by thanking the provincial government for its foresight in engaging Dr. Charles Pascal to examine the existing system. We welcomed his report because it sought to replace a fragmented system with a continuum of care from zero to 12 years. His recommendations centred around four key items: full-day learning for fours and fives, before- and after-school programs, consolidation of programs for younger children, and expanded parental leave. Our concern is that the current legislation picks out only one part of Dr. Pascal's report, four- and five-year-old all-day learning. Ignoring the other recommendations makes the entire, already precarious system vulnerable to collapse.

Pascal's recommendations showed a depth of understanding of the intricate interconnections within the pre-existing system and the enormous impact that child care has on working families. As a working parent, I worry about rising fees, about losing my job if my child gets sick, about whether my child is getting the attention she needs, and about the amazing women who care for my

daughter and whether they'll be able to continue doing the important work that they do.

We recognize and support the provincial government's move to expand all-day learning. Bill 242 presently does not address children aged four and under, yet this is an age group which will be heavily impacted by the bill. Junction Day Care presently cares for 24 four- and five-year-olds. When these children move into all-day learning, we'll need to look at changing our mandate to provide services to children under four. Caring for younger children requires higher adult-to-child ratios. This makes providing the service more expensive. This will mean an increase in the already high fees that parents are paying. It is a known fact that when fees go up, there is a drop in the labour force participation.

We know that there is a high need in our area to provide quality care for children under four. Unless transition money is set aside to assist us in this change, our centre is in jeopardy of closing. We have 30 years of experience providing child care within our community. We need to be engaged in this process, not legislated out of existence. We're extremely concerned that if the government does not include children aged zero to four in its mandate, the present system will destabilize, offering the perfect opportunity for substandard, big-box daycare to move in and fill the gap. As a parent, I cringe at the thought.

Under Bill 242, the ratio for the classroom is 1:13, with no cap on classroom size. This is a higher ratio than my child currently has. The before- and after-school care ratio is not specified, but recent job postings seem to indicate that only one staff member will provide this care. I don't know if you've ever been into a daycare at the end of the day, but it's chaotic. How will staff safely supervise outdoor play, deal with emergency situations, take children to the bathroom or share information with parents? Have you ever been alone in a room with 13 four-year-olds? If you had, you would never allow these ratios to pass uncontested.

Running parallel to Bill 242 are the proposed changes to the Day Nurseries Act which look to decrease the adult-to-child ratios. This is no way to address the present funding crisis.

As part of the city of Toronto, our daycare has a policy to include children with special needs. This requires more staff to children, in addition to specialized training. How will the early learning program support this policy? How will individual needs of children who may need more individual attention be met?

Currently my child has supervised care not just during the school year between 9 and 3.30, but every day from 7:30 to 6. As a working parent, I don't see how I could deal with any less than that. The plans for after-school care are not clear under Bill 242.

Our daycare currently provides a nutritious hot lunch in a family setting, supervised by child care staff. Whether it's from a busy working parent or a low-income family, the nutritional value of lunches that come into the school is generally very low. In order for children to be

able to benefit from all-day learning, they need to be well fed. Bill 242 needs to recognize this and make provisions for a lunch program for these young children.

Judging from the results of the first round of hiring by the Toronto District School Board, most of the ECE jobs in the early learning program will go to those currently working for the boards. We foresee layoffs to ECE staff currently working in community-based municipal centres, and the future of newly graduating ECEs is in jeopardy as we see a change from full-time, decent-income work to part-time work. It would be sadly ironic to see ECEs finally recognized as playing a vital role in the education of our children, only to have many of them facing unemployment. We urge you to remove the provision for a letter of permission, as there are many qualified ECE people who are educated and ready to fill these positions.

In the past month or so, we've been on an emotional rollercoaster as we watched the threats to funding for subsidized daycare spots and rent subsidies. These issues have been stayed off temporarily. It is worrisome to me that a service as essential as child care could be held together so tenuously with funding that gets threatened when deficits are encountered.

I'm a mother and a working professional. I'm here today because I worry about the livelihood of my family and my community, going forward. I have the ability to go to work every day and be a contributing member of society because I know that my daughter is safely cared for in a place that she loves. If Junction Day Care collapses, so will my ability to provide for my family.

I stand here today as a representative of my child, my daycare and our community.

In summary, we support all-day learning and we support the full implementation of the Pascal report. Transition funding is critical for ensuring high-quality care for the zero to four. Adult-to-child ratios must not be sacrificed. Increased ratios must be implemented for children with special needs. Provide a nutritious lunch program for four- and five-year-olds. Summer, March break and PA days must all be part of the legislation. If a child is in full-day kindergarten, enrolment in the extended day program should be automatic. Well-paid, trained ECEs should be hired to work as a team with the kindergarten teachers. Capitalize on the experience of the existing municipal programs and help these programs remain viable.

This will create communities that are sustainable. Sustainable means resilience; resilience means the system won't be so easily thrown off balance. It means an improved, affordable, accessible system for all.

Through this legislation, we have the potential to create a child care system which is as meaningful as our universal health care system. It can be something of which we are all proud, and which all Canadians will fight to protect.

Thank you for your time. We look forward to working with you.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation too. I think some of the concerns you've outlined have been outlined by others and are being listened to by this government.

At full inception, the plan calls for the hiring and the existence of about 20,000 more ECEs than we have today, and close to 4,000 either JK or SK teachers. You were talking in terms of unemployment. It seems to me that we're thinking in terms of much greater employment. So we must be talking about the transition period, as we start to move into that.

Ms. Michelle Xuereb: Yes.

Mr. Kevin Daniel Flynn: Okay, great.

The letters of permission have been raised by others, in that somehow the principal would choose to hire somebody who was less qualified or didn't have the qualifications at all that an ECE might possess. I think what may be being exaggerated in that is that this power resides with principals today in the teaching profession. When things get to a point where there simply is not somebody else to put in that room with those kids, the

principal has the authority to appoint somebody for a period of up to a year who is able to fill in a blank. I just don't see, in the city of Toronto, us having a shortage of ECEs, for example. If I think of the outlying areas and northern Ontario, perhaps you can envision that type of scenario. But it certainly is not the intent, by including that in the legislation, that that would become standard practice by any means.

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Mr. Flynn. I'd like to thank you, Ms. Xuereb, for your deputation and coming forward today.

Before the committee adjourns, I need to call: Is Ms. Gilligan or Ms. Hermiston, who are scheduled presenters, present? If not, then the time is forfeited.

For the committee members, the deadline for filing amendments is Tuesday, April 6, at 12 noon.

Our committee is adjourned, if there is no further business, until April 12, 2010, for clause-by-clause consideration. Committee adjourned.

The committee adjourned at 1639.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service

CONTENTS

Monday 29 March 2010

Full Day Early Learning Statute Law Amendment Act, 2010, Bill 242, Mrs. Dombrowsky / Loi de 2010 modifiant des lois en ce qui concerne l'apprentissage des jeunes enfants à temps plein, projet de loi 242, Mme Dombrowsky.....	SP-59
Canadian Hearing Society.....	SP-59
Mr. Gary Malkowski	
Lakeshore Community Child Care Centre	SP-61
Ms. Lisa Tjernstrom	
Ms. Shani Halfon	SP-62
Boulton Avenue Childcare Centre	SP-64
Ms. June Schappert	
Association of Early Childhood Educators Ontario	SP-65
Ms. Eduarda Sousa	
Middle Childhood Matters Coalition Toronto.....	SP-67
Ms. Maureen Anglin	
Ms. Lorna Weigand	
Ms. Wendy Teed	SP-69
Citizens Commission on Human Rights	SP-71
Mr. Robert Dobson-Smith	
Jackman Community Day Care	SP-73
Ms. Mary Deschamps	
Ms. Katrina Atkinson	
Ms. Donna Spreitzer	
Toronto Coalition for Better Child Care	SP-74
Ms. Jane Mercer	
Ontario Municipal Social Services Association.....	SP-76
Ms. Stephanie Rullo	
Ontario Federation of Labour.....	SP-78
Ms. Carrol Anne Sceviour	
Ms. Michelle Xuereb.....	SP-79

CA20N
XC14
-548



SP-4

SP-4

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 12 April 2010



Journal des débats (Hansard)

Lundi 12 avril 2010

Standing Committee on Social Policy

Full Day Early Learning
Statute Law
Amendment Act, 2010

Comité permanent de la politique sociale

Loi de 2010 modifiant des lois en
ce qui concerne l'apprentissage
des jeunes enfants à temps plein

Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 12 April 2010

Lundi 12 avril 2010

*The committee met at 1400 in committee room 1.*FULL DAY EARLY LEARNING
STATUTE LAW AMENDMENT ACT, 2010LOI DE 2010 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'APPRENTISSAGE
DES JEUNES ENFANTS À TEMPS PLEIN

Consideration of Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters / Projet de loi 242, Loi modifiant la Loi sur l'éducation et d'autres lois en ce qui concerne les éducateurs de la petite enfance, la maternelle et le jardin d'enfants, les programmes de jour prolongé et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, as you know, we're here for clause-by-clause consideration of Bill 242, An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters.

Before we begin individual section-by-section consideration, are there any general comments or statements that any individuals would like to make?

Mr. Rosario Marchese: We'll do so as we do amendments, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Very wise. Thank you.

We'll now proceed to section 1 consideration, and I would invite the PC caucus to please present motion 1. Ms. Witmer.

Mrs. Elizabeth Witmer: Mr. Chair, in light of a subsequent amendment that has been made about the extended-day program, I'm going to withdraw this one, please.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. Are there any further motions to be presented for section 1? Seeing none, we'll proceed to consider the section. Shall section 1 carry? Carried.

Government motion 2.

Ms. Leeanna Pendergast: I move that paragraph 3.0.0.1 of subsection 8(1) of the Education Act, as set out in subsection 2(1) of the bill, be amended by adding the following subparagraph:

"iv. respecting the circumstances in which a board is not required to designate a position in a junior kinder-

garten or kindergarten class as requiring an early childhood educator or to appoint an early childhood educator to such a position."

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Pendergast. Are there any comments either from you or from others, to begin with?

Mr. Rosario Marchese: Does the parliamentary assistant have any explanation for the amendment?

Ms. Leeanna Pendergast: I do. If you'd like me to begin, I'd be happy to.

The Chair (Mr. Shafiq Qaadri): I believe that is what is being called for.

Ms. Leeanna Pendergast: Excellent. This motion addresses an issue that was raised in depositions by stakeholders. It would clearly establish the authority to determine when an early childhood educator is not required in a JK/K class; for instance, such as smaller class sizes.

Mr. Rosario Marchese: Sorry, Leeanna. That's when it's not required, and did you give an example or two afterwards?

Ms. Leeanna Pendergast: I'm just—I'm going on.

Interjection.

Ms. Leeanna Pendergast: Yes. I'll get through it, Rosario.

My example is that an early childhood educator is not required in a JK/K class such as in smaller class sizes. The government fully accepts that a class of small size would not warrant two professionals. The specific class size requires further analysis and consultation, and so details for this are best specified by regulation. The government will, if these provisions are passed, engage with and seek advice from stakeholders on any regulations or guidelines on this issue.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: So a smaller class size would be what—22, 21, 20, 24? What would a small class size be?

Ms. Leeanna Pendergast: It would be smaller.

Mr. Rosario Marchese: I understand that. The average at the moment in your bill is 26. What is smaller?

Mr. Khalil Ramal: Anything—25 is smaller; 23 is smaller.

Ms. Leeanna Pendergast: Anything smaller than 26. It's an average—26. So anything smaller.

Mr. Rosario Marchese: So if it's 25, then, that would be considered smaller?

Ms. Leeanna Pendergast: You know what, Rosario? I think this speaks to exactly what I just said, that this is best dealt with in regulation. These are the types of things that don't belong in statute but are best dealt with in regulation.

Mr. Rosario Marchese: But we don't have a sense yet of what that number might be? You don't?

Ms. Leeanna Pendergast: That number could be anything. The demographic of Ontario is quite diverse, so at this point it could vary across the province.

Mr. Rosario Marchese: Hmm. Does that worry you, parliamentary assistant, or no?

Ms. Leeanna Pendergast: Does what worry me, Rosario?

Mr. Rosario Marchese: Because at some point I have an amendment that says—

Ms. Leeanna Pendergast: Sorry; does what worry me?

Mr. Rosario Marchese: I have an amendment that there should be two early childhood educators as an example of the kind of problem we're going to deal with. In your law, at the moment it says "one teacher and one early childhood educator." I'm going to be arguing later how difficult that is going to be. So for me, "smaller" is important to know, and I'm sure people will want to know what that smaller number would be, because it's going to be very difficult to run this program with one person. I wondered whether that worried you. I'm not sure whether you have any thoughts on that.

Ms. Leeanna Pendergast: I have several thoughts. I just want to reiterate what I said: The specific class size requires further analysis and consultation. But as well, we're talking small enough that it would be uneconomic to deliver with two adults. So, well below the 26.

The Chair (Mr. Shafiq Qaadri): Mrs. Witmer has also asked to make some comments. If I can allow her to do so, and then we can bounce it, please.

Mrs. Elizabeth Witmer: I certainly do share Mr. Marchese's concern about the size of the class and what we might be using as a number where there would not be a requirement to appoint an early childhood educator. Does this mean that instead, there may be a teacher's assistant appointed? I guess that's one question I would have.

The other concern that I have: We're already seeing that school boards are very concerned about the lack of detail about the implementation of the program in the fall. We know that concern about the looming deadline did bring trustees from around the GTA together this past weekend; they were from Toronto, York, Durham and some other boards. If we're going to leave this to regulation, we have no idea when the regulations are going to be developed. It's simply going to create more uncertainty in the sector and, again, it's going to mean that there's less certainty about what may or may not happen in the fall and also what the cost of the program might be at the end of the day.

The Chair (Mr. Shafiq Qaadri): Are there further comments? Rebuttals? Ms. Pendergast.

Ms. Leeanna Pendergast: I'd just like to add one comment. The situation is that it would be just a teacher, and this is responsive to board concerns.

Mrs. Elizabeth Witmer: Responsive to whom?

Ms. Leeanna Pendergast: Board concerns.

The Chair (Mr. Shafiq Qaadri): Are there further comments? Mr. Marchese.

Mr. Rosario Marchese: I just want to state some concern. I suspect that a whole lot of people are going to be alarmed by this. Not only is there great uncertainty in the whole bill, but this particular amendment, where the example that is offered is that smaller class size may determine that there will not be an early childhood educator, is going to alarm parents and should alarm teachers. It should alarm boards too, I would suspect. I think we've made our points clear.

1410

The Chair (Mr. Shafiq Qaadri): Seeing no further comments from the floor, I will move to consider the vote. Those in favour of government motion 2? Those opposed? Motion carried.

If there are no further motions for section 2, we'll consider this section. Shall section 2, as amended, carry? Carried.

There have been no motions presented so far for section 3. If there are no comments, we'll consider the vote. Shall section 3 carry? Carried.

We'll proceed to section 4: government motion 3. Ms. Pendergast.

Ms. Leeanna Pendergast: I move that paragraph 6.1 of subsection 11(1) of the Education Act, as set out in subsection 4(1) of the bill, be amended by adding the following subparagraph:

"iv. respecting the circumstances in which a board is not required to designate a position in a junior kindergarten or kindergarten class as requiring an early childhood educator or to appoint an early childhood educator to such a position."

Commentary: Again, this motion addresses issues raised by stakeholders. It would clearly establish authority to determine when an early childhood educator is not required in a JK/K class, such as smaller class sizes. The government fully accepts that a class of small size would not warrant two professionals. Again, the specific class size requires further analysis and consultation, and so details are best specified by regulation.

The government will, if these provisions are passed, engage with and seek advice from stakeholders on any regulations or guidelines on this issue.

The Chair (Mr. Shafiq Qaadri): Thank you. The floor is open for comments and questions. Ms. Witmer, would you care to start?

Mrs. Elizabeth Witmer: My reasoning and concerns would be similar to the government motion discussed in number 2. I'm really quite shocked that here we are in April and, I guess—having been a board chair myself—we really are not allowing the boards much time to move forward with staffing. We don't know yet what the definition of "smaller class size" is going to be. I am

quite concerned that a lot of this is going to be left to regulation. At the end of the day, we know that regulation doesn't allow for much other than the government to make a decision.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Just a quick question to the parliamentary assistant. Because of when the full-day learning is anticipated to be in place, can you share with the committee when the consultation is going to occur? Because as Ms. Witmer said, we're already in April.

Ms. Leeanna Pendergast: The government is fully aware of those timelines. If the statute is passed, then that would happen as soon as possible.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Marchese.

Interjection.

The Chair (Mr. Shafiq Qaadri): I'll accept the head nod, Mr. Marchese.

If there are no further comments, we'll proceed to consider government motion 3. Those in favour? Those opposed? Government motion 3 carries.

NDP motion 4: Mr. Marchese.

Mr. Rosario Marchese: I move that section 4 of the bill be amended by adding the following subsection:

"(1.1) Subsection 11(1) of the act is amended by adding the following paragraph:

"letter of permission, early childhood educator positions

"14. respecting the number of persons that a board may appoint based on letters of permission granted under paragraph 10.1 of subsection 8(1) to positions designated as requiring early childhood educators."

This is the first of a package of amendments that we are making to limit the letters of permission to ensure that qualified staff are running the program for our children. We'll get to that on page 10 and page 15 as well.

School boards should not be allowed to renew these permission letters indefinitely. We also argued another point, which I'll do later.

There should be access to a training fund, an apprenticeship fund, through the Ministry of Training, Colleges and Universities, or specific training monies given to boards to support the unqualified staff to attain the early childhood education certification. This is one of those motions that speak to it.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Leeanna Pendergast: The government has heard the concerns of the stakeholders, and we believe that this concern regarding the use of letters of permission can and should be addressed through regulatory powers, not via statutory amendment. Being a principal in a high school living on letters of permission, that does not belong in statute, Rosario. We intend to consult with stakeholders on the regulations and the guidelines; it just doesn't belong here.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour

of NDP motion 4? Those opposed to NDP motion 4? I declare NDP motion 4 to have been lost.

Government motion 5: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that paragraph 29 of subsection 11(1) of the Education Act, as set out in subsection 4(7) of the bill, be amended by striking out "person" and substituting "teacher."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: Again, this responds to issues raised by stakeholders regarding the clarity about teachers teaching and clarifying the new role of ECEs as a role in JK/K and extended day. This would address the perception that subsection 11(1) could be used to allow a person other than an OCT member to teach.

The Chair (Mr. Shafiq Qaadri): Further comments? If there are none, we'll proceed to the vote. Those in favour of government motion 5? Those opposed? Motion 5 carried.

Government motion 6: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that paragraph 29.1 of subsection 11(1) of the Education Act, as set out in subsection 4(8) of the bill, be amended by adding "in junior kindergarten, kindergarten or extended day programs" at the end.

The Chair (Mr. Shafiq Qaadri): Debate? Comments?

Ms. Leeanna Pendergast: This would address the perception that subsection 11(1) could be used to allow designated ECEs to work in grades other than JK/K.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll vote. Those in favour of government motion 6? Those opposed? Motion 6 carried.

Shall section 4, as amended, carry? Carried.

We'll proceed to section 5: no motions presented. Shall section 5 carry? Carried.

Section 6, NDP motion 7: Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

"(1.1) Subsection 170(1) of the act is amended by adding the following paragraphs:

"provision of food in junior kindergarten and kindergarten

"6.3 provide a nutritious lunch and snacks on every school day for pupils enrolled in full day junior kindergartens and kindergartens;

"provision of food in extended day programs

"6.4 provide snacks on every day on which an extended day program is operated by the board for pupils enrolled in the program."

I think school boards should be mandated and funded to provide a hot lunch and snacks to all children in the full-day-learning program. We expect child care centres that are currently watching over five-year-olds to provide meals, and we shouldn't expect any less for those kids who are going to be in these particular programs in our school system. We know that many studies show that hungry kids do not learn very well, and these meals can be part of an anti-poverty initiative that we think should

be appealing to Liberals, given that they've spoken so much about poverty initiatives.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: I'd just like to add that the issue of food provision is best managed at the board, at the school and at the community level. Nothing in the act or the bill precludes such arrangements at the board, school or community level.

Mr. Rosario Marchese: To the parliamentary assistant: That means any board could do whatever it wishes, and it could vary from one board to the other. Is that what you just suggested?

Ms. Leeanna Pendergast: There's nothing in the act to preclude them.

Mr. Rosario Marchese: Right. The point I made is that it should be enacted in law that all boards would do this. What you're saying is that nothing prevents boards from doing it, meaning that some might and some won't. Is that what I understand?

Ms. Leeanna Pendergast: What I'm saying, Rosario, is that the issue of food provision is best managed at the board, the school and the community level, that it doesn't belong in statute.

Mr. Rosario Marchese: And why doesn't it belong in statute?

Ms. Leeanna Pendergast: Because it's an issue that's best managed at the local level.

Mr. Rosario Marchese: So if I say the reason why it belongs in statute is because every board should do it—

Ms. Leeanna Pendergast: That's not what we're saying.

Mr. Rosario Marchese: You're saying that it doesn't belong in statute because boards may not want to do it or may wish to do it. Is that what you're saying? For clarity.
1420

Ms. Leeanna Pendergast: I'm saying that it's an issue that is best managed at the board level.

Mr. Rosario Marchese: The argument we make is that this issue is best managed by law and that every board should be mandated to do it so that you don't have a hodgepodge of programs across the province.

The Chair (Mr. Shafiq Qaadri): Are there further comments?

Mr. Rosario Marchese: I want a recorded vote.

The Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

Marchese.

Nays

Dhillon, Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): I declare NDP motion 7 to have been lost.

We'll move to government motion 8: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that paragraph 12.0.2 of subsection 170(1) of the Education Act, as set

out in subsection 6(2) of the bill, be amended by striking out "an early childhood educator to each position" and substituting "early childhood educators to positions."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: This would simply address potential concerns about whether more than one ECE could fill a single ECE position—for instance, half-time employment.

The Chair (Mr. Shafiq Qaadri): Further comments? Debate? Seeing none, we'll proceed to the vote. Those in favour of government motion 8? Those opposed? Government motion 8 carries.

NDP motion 9: Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

"(2.1) Subsection 170(1) of the act is amended by adding the following paragraph:

"roster of occasional early childhood educators

"12.0.3 subject to paragraph 3.0.0.1 of subsection 8(1) and paragraph 6.1 of subsection 11(1), maintain a roster of occasional early childhood educators."

We believe that early childhood educators are going to be a vital part of this program and they're going to be very important in the classroom. When they're not there because they're ill or for whatever reason, they must be, in my view, replaced by qualified early childhood educators. We don't want to see one teacher in a class of 30 four-year-olds because the ECE is ill. By not supporting this motion, this is what we're saying, it seems to me. We should have a roster of qualified ECEs. In my mind, it makes sense. It should be in the bill.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Pendergast.

Ms. Leeanna Pendergast: I'd just like to disagree with Mr. Marchese. He's proposing that the roster of occasional early childhood educators be in the bill. With all due respect, I'm going to suggest again that that is best managed at the board level. There is no such roster for occasional teachers, and I would say that, having lived that for 22 years in the system, it's a model that works very well and belongs at the board level.

Mr. Rosario Marchese: But why would there be a roster for occasional teachers? There is a great number of them. In fact, we don't use the number of occasional teachers we've got because there are so many of them. If they're absent, teachers in the school system make do. But this is a new program. If you don't have an early childhood educator, how is the school going to deal with the absence of that person? You just said it will be managed by the school.

Ms. Leeanna Pendergast: At the board level.

Mr. Rosario Marchese: At the board. How is it going to be managed? Do you have any idea?

Ms. Leeanna Pendergast: Yes. I've lived that. They have systems in place. They're very good at managing that, and it doesn't belong in statute.

Mr. Rosario Marchese: It's just too flippant of an answer.

Ms. Leeanna Pendergast: I don't mean to be flippant. With all due respect, sir, I don't mean to be flippant, but it is what—

Mr. Rosario Marchese: You would know that we're probably going to have difficulty finding enough early childhood educators and they're going to have to be trained. As soon as we start in September, what are we going to do? Who do we replace them with? Are we going to have educational assistants? Are we going to have the teacher do this alone?

Ms. Leeanna Pendergast: And that's what the board will decide.

Mr. Rosario Marchese: You see? That doesn't give me any comfort whatsoever. I know that you feel good, you and—

Ms. Leeanna Pendergast: I think we have to give the school boards the confidence that they deserve.

Mr. Rosario Marchese: Right, except that boards are already worried, as Rick Johnson would know, that they're not going to have the money. You saw the Toronto Star report today; they're very worried about having to steal from other programs to make this program work. So this is going to add an additional layer of problems on to boards, and you have said, "They're going to have to deal with this." The poor boards are going to have to deal with this extra administration, which means principals, of course, superintendents and directors having to worry about how to make this work. And you provide very little support except, "They will deal with it at the local level." That's your answer. It gives me no comfort, and I don't think it's going to give any people comfort about how this is going to get dealt with come September.

The Chair (Mr. Shafiq Qaadri): Are there further comments?

Ms. Leeanna Pendergast: Yes, just one more. I think we're going to agree to disagree, because I think there's lots of confidence in the way it works at the local level. It works very well, and having lived that, I think we have to be very careful here, Mr. Marchese, with what we're suggesting that we put in statute and what actually works better at the board level.

Mr. Rosario Marchese: Leeanna, this is a new program. We don't know how it's going to work. For you to say it works well on the basis of another experience is—

Interjection.

Mr. Rosario Marchese: I don't think so, Ted, but you should get on the list to speak, because I want to hear your opinion as well.

Mr. Ted McMeekin: My colleague is—

Mr. Rosario Marchese: Yes, but if you and Rick want to comment, I need to hear you as well.

I think this is a totally new experience. You have no knowledge of how this is going to work. That's why it's totally different, and we want to be able to build in the precautions in the bill.

Interjections.

Mr. Rosario Marchese: Sorry. We couldn't hear that little—

The Chair (Mr. Shafiq Qaadri): If there are no further, even more substantive comments, perhaps we could move to the vote.

Mr. Rosario Marchese: A recorded vote.

Ayes

Marchese.

Nays

Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 9 is defeated.

We'll proceed now to NDP motion 10.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

"(2.2) Subsection 170(1) of the act is amended by adding the following paragraph:

"annual report, early childhood educator positions

"12.0.4 prepare, and make available to the public, an annual report that sets out the number of persons that the board appointed to positions designated as requiring early childhood educators based on the authority of letters of permission granted under paragraph 10.1 of subsection 8(1), and the number of early childhood educators that it appointed to those positions, during the year in each school of the board."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rosario Marchese: I believe people need to know what these positions are, how many there are and how many have been hired as a result of letters of permission. I think we need an accountability system in place. I'm not sure what the government has in mind by way of letting the folks know what each board is doing in relation to my request, but I don't think there's anything there. I take no comfort at all in thinking the boards are going to be happy to manage this, as the parliamentary assistant has said. This is just one more motion that gives us greater accountability in how boards are dealing with this particular issue.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Leeanna Pendergast: I will just add, for the record, that monitoring is a good idea. That much we can agree on. But it's not appropriate to provide this degree of specificity that you're suggesting in statute.

Mr. Rosario Marchese: So the monitoring is good but the degree of monitoring is bad?

Ms. Leeanna Pendergast: No, the degree of specificity.

Mr. Rosario Marchese: The degree of specificity. Is there anything that you would like to recommend that I could support today?

Ms. Leeanna Pendergast: Perhaps. We'll see.

Mr. Rosario Marchese: The amendments are going to be dealt with in about half an hour. I'm not sure we'll have much time for, "We'll see."

Interjection.

Mr. Rosario Marchese: So I guess you're voting against it?

Ms. Leeanna Pendergast: Yes.

Mr. Rosario Marchese: On a recorded vote, monsieur le Président.

Ayes

Marchese.

Nays

Dhillon, Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 is defeated.

NDP motion 11.

Mr. Rosario Marchese: I move that subsection 6(4) of the bill be amended by adding the following subsection to section 170 of the Education Act:

"Class size for junior kindergarten and kindergarten

"(2.0.1) Despite any policy, guideline or regulation made under this act, the size of a junior kindergarten or kindergarten class operated under paragraph 6.2 of subsection (1) shall not exceed 26 pupils."

1430

It is my view that classes must be capped. I'm happy to report, for those of you who were here at the hearings, that I wasn't the only one who said that we should cap them at 26. There were many other deputants who said we should cap them at 26.

The average, as you have it, could result in classes of over 30. In fact, it could even be more than 30; we don't know. What we know is that an average of 26 means it's going to be higher. In my view, this is a totally unacceptable thing.

My suspicion is that you're not going to support a motion I have later on that talks about two early childhood educators. If you've got one teacher and one early childhood educator, as Leeanna would know, as a former principal—high school, but still, she would have a good sense of this—when you have to take children to the washroom, when you have lunch and you have naps, and when you've got kids who need a lot of attention or they're screaming, this is not going to be an easy thing. The more children you have, the more difficult it's going to be, and it will not become an educational program for those kids, as parents had hoped; it could easily become glorified babysitting for a lot of those kids unless we manage this properly.

The experience we have at the moment in grades 4 to 8, after you capped the primary grades, shows that many classes are well over 30. The experience we have about the capping of primary grades proves that this number, of the average class of 26, is going to be much greater than that.

We are profoundly nervous and worried, and I wait to hear what Leeanna has to say.

The Chair (Mr. Shafiq Qaadri): Ms. Pendergast?

Ms. Leeanna Pendergast: Rosario, I think I'd start by saying that the adult-to-pupil ratio of 26 to 2 is appropriate. It represents an improvement over current adult-to-pupil ratios. I would also say that boards need that flexibility to provide an average class size. They need that flexibility. I would also say that there will be careful monitoring of the classes over 26 to which you refer.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Rosario Marchese: I don't think this represents an improvement at all. This is not an improvement. The numbers in the current child care act are one person to 12 students. This is already an increase in numbers. So it's not an improvement over anything. This is an increase in the number of students in the care of two adults. I understand why you're doing it. You're strapped for cash, it seems, and you want to be able to make that number grow as best as you can. I know what this is about. But you're doing this at the expense of kids, and you're doing this at the expense of those teachers and early childhood educators.

There is no comfort for me or the early childhood educators, the teachers or the parents that you're going to monitor this. It means absolutely nothing, because what will happen is that most classes will have over 26; I guarantee it here today, and all of you know it. You all know this. They're not going to get the educational programming or the play kind of programming they have in early childhood education programs at the moment; they're not going to get it. We're going to be hurting those students and the people who care for them.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: Just a quick response. Rosario, I'm surprised to hear you say that they're not going to get it, when currently the ratio is 13 to 1 in child care.

The Chair (Mr. Shafiq Qaadri): Mr. Johnson.

Mr. Rick Johnson: Just on the hard cap size, what you've proposed here is "shall not exceed 26 pupils."

Mr. Rosario Marchese: That's right.

Mr. Rick Johnson: You run into situations—so if there are 27, the 27th child doesn't get into the program, you don't offer it, or you split it and then you've got two classes, one of 13 and one of 14? Then the one of 13 gets one person, maybe, for numbers?

There were difficulties that came in when the hard cap went in for school boards, and it was worked out over a period of time. A hard cap can be extremely problematic in rural Ontario for trying to deliver programs. The Simcoe school board, for a number of years, had a hard cap of 20. What happened is that the 21st child got bused to another school, one maybe not in their own community. We could be setting up the same type of scenario, where the 26th or 27th child on a hard cap is suddenly travelling on a school bus for an hour to get to another rural school. Boards need the flexibility.

Mr. Rosario Marchese: Okay, so how are you dealing with the capping of the primary grades?

Mr. Rick Johnson: Split grades, in a lot of—

Mr. Rosario Marchese: Sorry?

Mr. Rick Johnson: Split grades, in a lot of instances.

Mr. Rosario Marchese: So are you disagreeing with the capping of the early grades, the primary grades?

Mr. Rick Johnson: No. They found a way to work it out, but it took time to work it out.

Mr. Rosario Marchese: So you've got capping, which you support, but the capping presents problems, and they've worked it out. So you're saying to my motion that it would present a problem because we wouldn't be able to work it out, as you've done with the capping of the primary grades.

Mr. Rick Johnson: Exactly.

Mr. Rosario Marchese: You don't find any contradiction in the argument?

Mr. Rick Johnson: No. You're dealing with four-year-olds. What you're suggesting is busing four-year-olds halfway across a county, and I don't see the logic in that.

Mr. Rosario Marchese: Okay, so you're all happy with the average of 26, it seems.

The Chair (Mr. Shafiq Qaadri): Ms. Pendergast?

Ms. Leeanna Pendergast: I just wanted to go back to the contradiction to which you refer, Mr. Marchese. You were saying that it's working in child care but that there's no way the 26 to 2 is going to work, and yet child care is a 13-to-1 ratio. I am an English teacher, but if my math is correct then 26 to 2 is the same thing. Thank you.

Mr. Rosario Marchese: I'm so glad that you guys are happy with your own motion. This is good.

Interjection.

Mr. Rosario Marchese: No, but it's good that you're making the arguments in front of people, because that's why they came here: to listen to this. I'm happy to hear that.

A recorded vote, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Recorded vote on motion 11.

Ayes

Marchese.

Nays

Dhillon, Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): Motion 11 is defeated.

NDP motion 12: Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

“(5) Section 170 of the act is amended by adding the following subsection:

“Employment of early childhood educators

“(2.2) A board shall employ an early childhood educator appointed under paragraph 12.0.2 of subsection (1) in a full-time capacity, based on a seven-hour continuous work day, in a position designated under

paragraph 12.0.1 of subsection (1) or in a position designated under subsection 260 (1).”

We really believe that it's going to be very difficult to do this program well with one teacher and one early childhood educator. This program, when you include early pre-school and after-school programming—

The Chair (Mr. Shafiq Qaadri): Mr. Marchese, I think we've got motion-skipping going on here, so I would reinvoke you to present NDP motion 12.

Mr. Rosario Marchese: Sorry. I was reading the other motion that's coming up. Okay.

The Chair (Mr. Shafiq Qaadri): We appreciate your eagerness, Mr. Marchese, but—

Mr. Rosario Marchese: I move that subsection 6(4) of the bill be amended by adding the following subsections to section 170 of the Education Act:

“Reduction of day nurseries' space

“(2.0.2) A board shall not reduce the amount of space in a school that is used by day nurseries for the purpose of implementing paragraphs 6.1 and 6.2 of subsection (1).

“Capital funding, early learning

“(2.0.3) If there is inadequate space in a school to implement paragraphs 6.1 and 6.2 of subsection 8(1), the minister shall provide the board with funding to facilitate any construction or renovations necessary to implement those paragraphs.”

In order to protect child care spaces, including the spaces in our schools currently occupied by child care programs, the government must provide capital funding to provide space for the early learning program that will not result in the loss of viable child care spaces.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. Pendergast.

Ms. Leeanna Pendergast: I wanted to add for the record that the government has indicated it will be working with the municipal sector and other partners on measures to help stabilize the child care sector. A commitment to quality child care has been demonstrated in the 2010 budget decision to step in and continue to fund the child care spaces that were abandoned by the federal government with an Ontario government commitment of \$63.5 million per year. The government has announced the first phase of \$245 million in capital funding to support early learning, and the funding is a direct response to stakeholder concerns.

1440

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: The \$63 million is totally different money. That money is a continuation of current programs. That money is the money that you took from the federal government and spread out over a four-year period. That \$63 million will continue with that programming.

That has nothing to do with the problems that will be caused by pulling out JK and SK and by having the extended programs in the pre-school and after-school. This presents different problems to those child care centres.

Are you arguing, as you confer with Ted, that that \$63 million will provide stabilization money for this particular issue? Is that what I hear?

Ms. Leeanna Pendergast: Are you finished?

Mr. Rosario Marchese: Sorry?

Ms. Leeanna Pendergast: The four-year funding you're talking about: This is new money, \$63.5 million, that's being put in to stabilize the child care sector.

Mr. Rosario Marchese: Okay. I have to repeat it.

Ms. Leeanna Pendergast: No, you don't have to repeat it.

Mr. Rosario Marchese: I do, because I'm not sure you're getting it. What you have been doing for the last four years is to give \$63 million for child care programming over a four-year period. What your government has done is continue with that programming money that comes from the province. That \$63 million is specifically for that, not for this.

Ms. Leeanna Pendergast: It's for child care spaces, Rosario, which is part of the big picture. I need you to see the big picture. I need you to look long-term. I need you to see that this is \$63.5 million that's new money from the 2010 budget that's being put in to support child care spaces after the federal government has pulled out and not come to the table with the money, abandoned—

Mr. Rosario Marchese: So what I hear you saying is that that \$63 million will be used to stabilize problem program areas that this bill might bring about.

Ms. Leeanna Pendergast: To fund child care spaces, is what I said.

Mr. Rosario Marchese: Okay. Recorded vote.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to NDP motion 12; recorded vote.

Ayes

Marchese.

Nays

Dhillon, Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 12 is defeated.

NDP motion 13: Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

“(5) Section 170 of the act is amended by adding the following subsection:

“Employment of early childhood educators

“(2.2) A board shall employ an early childhood educator appointed under paragraph 12.0.2 of subsection (1) in a full-time capacity, based on a seven-hour continuous work day, in a position designated under paragraph 12.0.1 of subsection (1) or in a position designated under subsection 260(1).”

This is part of a package of amendments designed to provide two early childhood educators for each classroom, in order to deliver a planned and effective curriculum and support the principle of seamless early education throughout the complete, full and extended-day period.

The early childhood educator positions must be full-time and based on a seven-hour day. The two early childhood educator positions must overlap to enable the provision of 7 a.m. to 6 p.m. coverage, including the availability of both early childhood educators to cover the lunch-hour period. This is the only way to guarantee that the extended day will be covered by qualified staff in a consistent manner. We believe it would be very difficult for boards to hire qualified staff for a stand-alone before- and after-school program of a few hours before and a few hours after school.

This is the argument we make: If you do not have two people, the one person simply will not do. We will not have qualified staff doing the pre-school and after-school care. They will not be qualified, in my view.

I don't know what the government is planning to do, other than a stock answer at the moment that says, “Boards will deal with it.”

We are worried, and we believe the only way to provide a good, seamless program for all these students, from pre-school to after-school care, is to do what we are proposing. And we weren't the only ones proposing this measure, based on the number of deputants who spoke to this.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: I'd just like to add that working conditions should be addressed through collective bargaining, and that is a process at the board level.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to the vote.

Mr. Rosario Marchese: No, no.

The Chair (Mr. Shafiq Qaadri): I'm sorry. Please go ahead.

Mr. Rosario Marchese: So “collective bargaining” is the answer to this question? Yes. I see.

You've got 26 students, on average—it could be 30—four-year-olds eating lunch and staying over lunch hour who will require the expert supervision of at least two people, and the teacher will not be available for most of the lunch period. If the government rejects this, how do they propose to guarantee extended-day coverage when boards have been very clear that the current provisions do not provide adequate resources? And the answer is “collective bargaining.”

On a recorded vote.

The Chair (Mr. Shafiq Qaadri): No further comments? We'll proceed to a recorded vote of NDP motion 13.

Ayes

Marchese.

Nays

Dhillon, Johnson, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): I declare NDP motion 13 to have been defeated.

Government motion 14: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 6 of the bill be amended by adding the following subsection:

“(5) Section 170 of the act is amended by adding the following subsection:

“‘Appoint or assign teachers

“(2.2) For greater certainty, a board shall assign or appoint a teacher to each junior kindergarten and kindergarten class in each school of the board.”

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: The rationale here, Chair, is that it clarifies that there will be a teacher appointed to each JK/K class in each school of the board. It also addresses any perception that the proposed Bill 242 amendment would not clearly require a board to assign a teacher to each JK/K class.

The Chair (Mr. Shafiq Qaadri): Comments? If there are no comments, we'll proceed to the vote. Those in favour of government motion 14? Those opposed? I declare government motion 14 to have carried.

NDP motion 15.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

“(6) Section 170 of the act is amended by adding the following subsections:

“‘Letters of permission, early childhood educator positions

“(2.3) A board may not apply for a letter of permission under paragraph 10.1 of subsection 8(1) in respect of the same person more than twice.

“‘Same

“(2.4) If a board has been granted two letters of permission under paragraph 10.1 of subsection (1) in respect of the same person and that person wants to become an early childhood educator, the board shall provide support to the person to do so.

“‘Same

“(2.5) The support required by subsection (2.4) shall include financial support if money is appropriated by the Legislature for the purpose of that subsection.”

It's just part of the amendment package that I was speaking to earlier, where we were saying that we want to ensure that we have qualified staff who are running the programs for our children. We are saying that school boards should not be allowed to renew these permission letters indefinitely, which under the current law they could, by applying every year for their letters of permission to be renewed. We're also saying that there should be access to an apprenticeship fund through the Ministry of Training, Colleges and Universities, or specific training monies given to boards to support the unqualified for those who are not qualified to attain an early childhood education certification. This would do that.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Leeanna Pendergast: Again, Mr. Marchese, I'm going to answer you as a principal whose livelihood some days depends on a letter of permission. The similar-teacher letter of permission issues are not addressed in

the statute either. It would not be appropriate to include this in statute. We've heard the concerns of the ECEs on this issue and intend to consult with them as regulations are developed if the bill is passed.

1450

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed—

Mr. Rosario Marchese: I want a recorded vote again.

The Chair (Mr. Shafiq Qaadri): A recorded vote on NDP motion 15.

Ayes

Marchese.

Nays

Dhillon, Johnson, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 15 is defeated.

NDP motion 16: Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by adding the following subsection:

“(7) Section 170 of the act is amended by adding the following subsection:

“‘Occasional early childhood educators

“(2.6) For the purposes of paragraph 12.0.3 of subsection (1), an early childhood educator is an occasional early childhood educator if he or she is employed by a board as a substitute for a person employed in a position designated as requiring an early childhood educator who is or was employed by the board in a position that is part of its regular staff but,

“(a) if the early childhood educator substitutes for a person who has died during a school year, the early childhood educator's employment as the substitute for him or her shall not extend past the end of the school year in which the death occurred; and

“(b) if the early childhood educator substitutes for a person who is absent from his or her duties for a temporary period, the early childhood educator's employment as the substitute for him or her shall not extend past the end of the second school year after his or her absence begins.”

The Chair (Mr. Shafiq Qaadri): Mr. Marchese, before you make any further comments, I'd just intervene. I'm informed that NDP motion 16 was contingent on NDP motion 9 having passed.

Mr. Rosario Marchese: That's fine. It makes sense.

The Chair (Mr. Shafiq Qaadri): As it has in fact been defeated, the motion is out of order.

Mr. Rosario Marchese: That's fine.

The Chair (Mr. Shafiq Qaadri): So we'll essentially annihilate NDP motion 16.

If there are no further comments on the section, we'll proceed to the vote on the section as a whole. Therefore, shall section 6, as amended, carry? Carried.

We'll proceed now to section 7. Government motion 17: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that clauses 170.3(a) and (b) of the Education Act, as set out in section 7 of the bill, be struck out and the following substituted:

"(a) to assist teachers or to complement instruction by teachers in elementary or secondary schools, except in junior kindergarten or kindergarten;

"(b) to assist teachers and designated early childhood educators or to complement instruction by teachers and the work of designated early childhood educators in junior kindergarten or kindergarten; or

"(c) to assist designated early childhood educators or to complement the work of designated early childhood educators in extended day programs."

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Rosario Marchese: Could I ask who this refers to? Could she explain the difference between (a), where it says "to assist teachers or to complement instruction by teachers in elementary or secondary schools, except in junior kindergarten or kindergarten," and (b) and (c), "to assist teachers and designated early childhood educators or to complement instruction by teachers ... in junior kindergarten"? What is the difference between (a) and the other two, (b) and (c)? Whom are we referring to?

Ms. Leeanna Pendergast: I was just about to explain, before you jumped in, the purpose of this government motion. It responds to teacher and stakeholder concerns and it clarifies the proposed amendment to address the perception that it could be interpreted such that educational assistants, or EAs, could be assigned only to ECEs rather than to the JK/K team.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed now to the vote on government motion 17. Those in favour? Those opposed? Government motion 17 is carried.

Shall section 7, as amended, carry? Carried.

Section 8, government motion 18: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that paragraph 5 of subsection 171(1) of the Education Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"supervisors, teachers

"5. appoint persons to supervise teaching staff and every appointee shall hold the qualifications and perform the duties required under any act or regulation administered by the minister;

"supervisors, designated early childhood educators

"5.1 appoint persons to supervise persons in positions designated by the board as requiring an early childhood educator and every appointee shall hold the qualifications and perform the duties required under any act or regulation administered by the minister."

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote—Ms. Pendergast.

Ms. Leeanna Pendergast: I just wanted to add to that that it would distinguish powers to appoint persons who

supervise teachers from those appointed persons who supervise ECEs.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 18? Those opposed? Government motion 18 carries.

Government motion 19: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 8 of the bill be amended by adding the following subsection:

"(5.1) Paragraph 23 of subsection 171(1) of the act is repealed and the following substituted:

"pupil fees

"23. subject to the provisions of this act and the regulations, fix the fees to be paid by or on behalf of pupils;

"pupil fees, payment and enforcement

"23.1 subject to the provisions of this act and the regulations, fix the times of payment of fees to be paid by or on behalf of pupils, enforce payment of those fees by action in the Small Claims Court, and exclude any pupil by or on behalf of whom fees that are legally required to be paid are not paid after reasonable notice."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rosario Marchese: I have a question, unless she has an answer to her amendment. No. The question I have for her is—parents still don't know what the fees are going to be. They don't know how to apply for support. How are boards going to provide the infrastructure to deal with the management of parent fees? Are existing staff expected to manage what will be the creation of a whole new bureaucracy? These are some of the questions that we ask that have been asked by many of the deputants. Does the parliamentary assistant have any answers at this time, or is this something that will be dealt with in due course?

Ms. Leeanna Pendergast: Exactly. I'm sorry; you were just too quick for me again, Rosario. These are, as you can see, technical amendments. All they do is confirm that boards may not set fees regarding the extended-day program unless those fees are set out by regulation.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer.

Mrs. Elizabeth Witmer: I guess this is another area where parents need some certainty as they do their own planning. I guess the question I also would have is, is there going to be the same fee across the province of Ontario or will there be different fees at different boards, different schools? When would that decision be made?

The Chair (Mr. Shafiq Qaadri): Ms. Pendergast?

Ms. Leeanna Pendergast: I think this goes back to our earlier comments that this will be set out in regulation, and it will be done as soon as possible; ideally by June would be perfect for people in the school system.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote, then. Those in favour of government motion 19? Those opposed? I declare government motion 19 to have been carried.

Shall section 8, as amended, carry? Carried.

Section 9: Shall section 9 carry? Carried.

Section 10, PC motion 20: Ms. Witmer.

Mrs. Elizabeth Witmer: I move that subsection 259(1) of the Education Act, as set out in section 10 of the bill, be struck out and the following substituted:

“Operation of extended day programs by boards

“(1) Subject to the regulations made under this part, every board shall operate extended day programs, either directly or through contracts with not-for-profit community providers, in every elementary school of the board, on every school day, other than professional activity days, outside the time when junior kindergarten and kindergarten are operated in the school, for pupils of the board who are enrolled in junior kindergarten or kindergarten.”

If there was one concern that we heard over and over again when the deputants came before us, it was the concern about the programs that were presently operating within schools. Many of them were local community not-for profit providers. They included the Ys and the Boys and Girls Clubs etc. Of course, the original motion by the government prohibited school boards from partnering with these people. It would have meant that we actually had a parallel system providing services that are already available today. I think the whole focus behind education needs to be on collaboration, working together with the community, and also making sure that the programs that had been developed over years, and where we had developed a mutual respect for one another, would be able to continue.

1500

Those not-for-profits—the Ys etc.—would be able to continue working with schools, because these people are eager to embrace full-day learning, so we didn’t see the need for any duplication. We really would hope that all of those current community providers that are offering outstanding, quality programs would have the opportunity to continue to work with school boards to make full-day learning a success.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: I just wanted to say that I was torn by this issue because I heard the same deputants who came and were pleading with us that we should work with them as partners. The reason why I was torn is because I really feel that as we pull the four- and five-year-olds out of child cares, including extended-day programs, this is going to cause a great deal of problems to those early childhood educators and to those other providers. It will cause financial problems. We heard it from everyone. It wasn’t just one or two; we heard it from everyone.

For me, the question was: If I support this, how does that solve our general problems that Pascal was trying to answer? I determined that, for me, the goal is Pascal, and that what we want is a seamless day. That’s what he and his study proposed, and I agree with him.

But it’s also for that reason that I propose that we have stabilization money that I now will hear from the parliamentary assistant—that they’re going to use the \$63 million that was announced for that purpose. That will solve some of the problems for those groups that were providing these programs, and it will take money from

those child care centres that were expecting to continue with the programs that they were providing. It will continue to introduce problems that this government hasn’t thought through. There are going to be so many problems that this government has not anticipated. I really am worried about September and how all of this is going to unfold.

The reason why I can’t support it is because, if I support this, it moves us away from the seamless day that Pascal was talking about, including the creation of a continuum of early learning, child care and family supports for children that he was proposing.

I’m hoping that when I move my motion that’s coming soon, the government will support me in that regard. We’ll see.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Pendergast.

Ms. Leeanna Pendergast: To begin, just to say to Mr. Marchese that Minister Broten has indicated that there will be additional stabilization funds.

But I wanted to go back to the—

Mr. Rosario Marchese: Sorry, when did she announce that?

Ms. Leeanna Pendergast: I’m sorry?

Mr. Rosario Marchese: Did you say that the minister said there will be additional—

Ms. Leeanna Pendergast: Stabilization funds.

Mr. Rosario Marchese: When did she do that? I never heard that.

Ms. Leeanna Pendergast: I can give you those details. I just want to respond to motion 20.

Mr. Rosario Marchese: Well, come back.

Ms. Leeanna Pendergast: I want to say for the record that the legislation, as proposed, articulates the government’s basic vision of a school-board-delivered extended-day program for four- and five-year-olds. We define “extended day” as part of school, and we don’t subcontract the provision of school to third parties.

However, we’ve heard the concerns of stakeholders in the child care sector of the school boards and third party providers. We’ve heard them; we’ve listened to them. We’ve heard their concerns, and we do agree that there needs to be significant flexibility to acknowledge third party arrangements through the transition. The right way to do this and the right way to respond to this, we believe, is through the regulatory authority to address the concerns that were raised regarding transition.

Also, the government will be proposing another motion later on the role of third parties concerning six- to 12-year-olds and extended-year. We’ll clarify the appropriateness of third party delivery. Together, these measures make a balanced approach to address the issues that the stakeholders have raised.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, then Mr. Marchese.

Ms. Sylvia Jones: A follow-up question to what the parliamentary assistant was saying: We’ve defined “extended day” as part of school. By extension, that, to me, says that if you choose not to enrol your children in

the before-or-after part of the program, and choose not to pay for that, you are in fact missing part of the school curriculum, the school program. I wonder if you could expand on that, because that was actually laid out in a memo sent out by your early childhood deputy.

Ms. Leeanna Pendergast: There are several components to that. The extended day is play-based, although it is learning—

Ms. Sylvia Jones: But there is homework related to it, according to your deputy.

Ms. Leeanna Pendergast: And it's not mandatory, as JK/K—

Ms. Sylvia Jones: But there would be a homework component to it, if the children are not included in it and the parents don't pay for it.

Ms. Leeanna Pendergast: Right, but we're not talking about curriculum; we're talking about the integration of the before-and-after part of the day.

Ms. Sylvia Jones: You are talking about homework for four-and five-year-olds, though.

Ms. Leeanna Pendergast: I'm not following the homework piece that you're talking about. Could you say that again, please, Sylvia?

Ms. Sylvia Jones: I'll provide the memo that your deputy has sent around to all the boards that says that there is a homework component if children choose not to participate in the before-and-after portion of the full-day learning program.

Ms. Leeanna Pendergast: Okay, and I'm going to say that homework is not part of that.

The Chair (Mr. Shafiq Qaadri): Are there further comments? Mr. Marchese and Ms. Witmer.

Mr. Rosario Marchese: I don't mind. You go first, and then I'll go after.

Mrs. Elizabeth Witmer: I thought I heard the parliamentary assistant say that, during the transition period, boards were going to be able to continue to have agreements with others. Are they always going to have the opportunity, or is it only through a transition period?

Ms. Leeanna Pendergast: Right now, we're looking at through transition.

Mrs. Elizabeth Witmer: Pardon?

Ms. Leeanna Pendergast: Through transition.

Mrs. Elizabeth Witmer: So eventually, then, bodies such as the daycare providers and the Y and the Boys and Girls Clubs etc. will no longer be able to offer the services that they're currently providing?

Ms. Leeanna Pendergast: I guess we don't have a crystal ball. We don't know that to be the case.

Mrs. Elizabeth Witmer: Do you know, I find that so alarming—

Ms. Sylvia Jones: Dismissive.

Mrs. Elizabeth Witmer: —and my colleague just said “dismissive.” You pick up the paper almost every day and there's some board or some trustee or some parents in this province who are expressing concern about the implementation of Bill 242. Why the government didn't take the time to get it right before they roll out a bill for which they have many unanswered ques-

tions, I think, in all fairness to the little children who are going to be involved in the delivery of this program, and the schools, who already suffer enough from not knowing what's going to be happening as they face the fall of this year—it's personally very alarming.

I am shocked that these providers, who told us that they aren't going to be able to provide services if they don't have the four- and five-year-olds, that they simply won't have the funding to continue to provide programs to the other age groups—to hear you say now that only as a temporary measure will school boards be allowed to partner with them but that is going to be eliminated too, I'm really shocked. We talk about community; we talk about breaking down barriers. We're just building a lovely little empire and silos all around.

What about the kids that choose not to participate in this program? I've heard from those families too. They're going to be left out in the cold as well, and there's really no choice whatsoever. I know parents who want their children to go only half a day. They're being told that that's not possible because the child will have to go to another school.

I'm not sure that we're doing all children a favour and I'm not sure that we're doing all families a favour if we don't consider the impact of what this bill could do at the end of the day to some of those not-for-profit providers. As I say, the Y has done an outstanding job of providing extended after-school and licensed daycare programs throughout the province, as have so many of the other not-for-profit agencies. Suddenly, in one fell swoop, the good work they've done over many decades is going to be wiped out.

1510

The Chair (Mr. Shafiq Qaadri): Mr. Marchese and then Ms. Pendergast.

Mr. Rosario Marchese: My worry is that if we don't do this right, we feed into a lot of Conservatives who don't support this program. That's why I'm trying to make it better.

I have to ask you: You said that the minister announced additional stabilization money? Earlier you said that the \$63 million was the money that would provide stabilization support. Did I hear you correctly?

Ms. Leeanna Pendergast: Both are correct.

Mr. Rosario Marchese: Sorry?

Ms. Leeanna Pendergast: Yes, both are correct. The \$63.5 million has been announced, and we have not yet announced specifics on the additional stabilization funding.

Mr. Rosario Marchese: Oh, because earlier, you were quite convinced that the \$63 million would solve everything, but now you—

Ms. Leeanna Pendergast: Not at all, Rosario; not at all.

Mr. Rosario Marchese: Okay. So I'm glad somebody brought you a piece of paper saying—

Ms. Leeanna Pendergast: Nobody brought me a paper; I just didn't say that.

Mr. Rosario Marchese: That's great. So there will be—I wanted to write it correctly. You said that the

minister announced additional money; that's what I wrote down.

Ms. Leeanna Pendergast: We have not announced additional stabilization funding, but we have announced the \$63.5 million.

Mr. Rosario Marchese: That I know.

Ms. Leeanna Pendergast: Okay.

Mr. Rosario Marchese: But did you say—maybe I'm misunderstanding again—that there would be additional money in addition to the \$63 million or no?

Ms. Leeanna Pendergast: Which has not been announced.

Mr. Rosario Marchese: It has not been announced, but it's—

Ms. Leeanna Pendergast: The specifics have not been announced. But Minister Broten has said on a number of occasions, Rosario, that her ministry has begun consulting on this issue with municipalities and looking at the best way to allocate funds.

Mr. Rosario Marchese: The \$63 million?

Ms. Leeanna Pendergast: Maybe you—

Mr. Rosario Marchese: Additional?

Ms. Leeanna Pendergast: Yeah.

Mr. Rosario Marchese: If there's something that the minister has said or is planning to say, I hope she'll say it soon so she can clarify things for us and make people like me feel better.

Ms. Leeanna Pendergast: Excellent.

In response to the “dismissive,” I am definitely not dismissive. This is my life—education—and I do not mean to be dismissive in any way. I'm a little uncomfortable with the term “dismissive,” and if that's how I appeared to you, then accept my apology. I'm not sure why you said “dismissive” under your breath.

I think what we really need to focus on is what Rosario just said, and that's that we have to do this right. I would agree with him, and that's why we have the transition period. Yes, this is good for children, but that's why we need to have a measured response. We have to get this right. This program is one of a kind. It's brand new. There's nothing like it. So we have to have a balanced approach. It's a school-board-delivered extended day, and there will definitely be ongoing evaluation of the transition. That's why we have the transitional regulations.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before the vote? We'll proceed, then. Those in favour of PC motion 20? Those opposed? I declare PC motion 20 to have been defeated.

NDP motion 21: Mr. Marchese.

Mr. Rosario Marchese: I move that subsection 259(1) of the Education Act, as set out in section 10 of the bill, be struck out and the following substituted:

“Operation of extended day programs by boards

“(1) Subject to the regulations, policies and guidelines made under this part, every board shall operate extended, full day learning programs throughout the year, in every elementary school of the board, outside the time when junior kindergarten and kindergarten are operated in the school, for pupils of the board who are enrolled in junior

kindergarten or kindergarten, between the hours of 7 a.m. and 6 p.m. on every day from Monday to Friday, other than a holiday within the meaning of section 87 of the Legislation Act, 2006.”

The reason why we propose this is because a whole lot of deputants said the same thing. They're hoping that they're going to have a year-round program. I think it's going to be very, very difficult for parents to send their kids to the pre-school and after-school care, full-time JK, full-time SK, and then, for the two months of the year and other holiday periods, they're going to have to scramble to find the care for their children. It's going to be complicated. I'm not sure how they're going to manage it, but I suppose they will.

I know that the bill speaks about this on page 10, clause (f), where it says that it allows boards to enrol but it doesn't provide boards to make sure a student is enrolled. It doesn't provide for these programs. It simply leaves it open for boards to provide something, but it doesn't say, and they're not obligated to do anything.

We think this is an important part of this program, that it be continued throughout the whole year, and I think it would be good for everyone if we did that.

The Chair (Mr. Shafiq Qaadri): Are there further comments?

Ms. Leeanna Pendergast: I would just like to say to Mr. Marchese that boards are already empowered to provide extended-day programs throughout the year, if they so choose. But we not imposing a duty on boards to provide such extended-year programs—

Mr. Rosario Marchese: That's what I said.

Ms. Leeanna Pendergast: —at this time.

Interjection: So you agree.

Mr. Rosario Marchese: I see. The only point I wanted to make, Leeanna, is that you allow boards to enrol, but that means that boards will not do it because it's an administrative nightmare. It's also, obviously, costly. If you don't obligate them to do it with the support, no one is going to do it. But it will be problematic for a lot of parents, having to switch from a 10-month period, where you've got pre-school and after-school, and all of a sudden they've got to go scrambling somewhere else to find the care. You will admit, this is a problem.

Ms. Leeanna Pendergast: No.

Mr. Rosario Marchese: Recorded vote, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Recorded vote on NDP motion 21.

Ayes

Marchese.

Nays

Dhillon, Johnson, McMeekin, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 21 is defeated.

We'll proceed to PC motion 22: Ms. Witmer.

Mrs. Elizabeth Witmer: I move that subsection 259(2) of the Education Act, as set out in section 10 of the bill, is struck out and the following substituted:

"Same

"(2) Subject to the regulations made under this part, a board may also operate extended day programs, either directly or through contracts with not-for-profit community providers, in a school of the board, outside the time when junior kindergarten and kindergarten are operated in the school, for any pupils of the board to whom the board decides to provide the program."

Again, that is based on the premise that currently there are providers within our schools who are providing outstanding programs to our children. This would allow for those relationships to continue.

The Chair (Mr. Shafiq Qaadri): Comments? Any comments on PC motion 22? Seeing none, we'll proceed to the vote. Those in favour of PC motion 22? Those opposed? PC motion 22 is defeated.

NDP motion 23.

Mr. Rosario Marchese: I move that section 259 of the Education Act, as set out in section 10 of the bill, be amended by adding the following subsections:

"Exception

"(5) Subsection (1) does not apply to a board until a date set out in a plan developed under subsection (6) if, on the day before subsection (1) comes into force, the board provided an extended"—

Interjection.

Mr. Rosario Marchese: That's not the correct one? My amendment is there. I was looking for that. Thank you.

This is motion 23.1.

I move that section 259 of the Education Act, as set out in section 10 of the bill, be amended by adding the following subsections:

"Exception

"(5) Subsection (1) does not apply to a French-language district school board until a date set out in a plan developed under subsection (6) if, on the day before subsection (1) comes into force, the board provided an extended, full-day learning program outside the time when junior kindergarten or kindergarten was operated in schools of the board for pupils enrolled in junior kindergarten or kindergarten."

"Same, transitional plan

"(6) The minister shall develop a transitional plan for the purpose of subsection (5) in consultation with the board."

1520

We recognize the uniqueness of the French-language education system and we acknowledge that the French school boards have had full-day kindergarten programs for a long time. These programs are very successful and have evolved over a number of years. In order for them to be sustainable, I think we have to support them and we have to consult with them. So rather than impose a new system, we propose an orderly transition to the Pascal model, with a full consultation of French boards and the francophone community over a number of years.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none—

Mr. Rosario Marchese: Recorded vote.

Ayes

Marchese.

Nays

Dhillon, Johnson, Pendergast, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 23.1 is defeated.

Government motion 24.1: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 259 of the Education Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Agreements

"(5) Nothing in this section limits any right of a board to enter into an agreement with a person or other entity to operate a program in a school of the board, other than a program operated at the same time as, and for the same pupils who may enrol in, an extended day program operated by the board under subsection (1)."

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Leeanna Pendergast: This motion, which would be combined with regulations on transition, reflects a balanced approach to the issues raised by stakeholders, which is what we spoke about earlier: the need for a balanced, measured approach. It does so without contracting out school. It clarifies that school boards will retain the right to enter into third party agreements relating to JK/K students in schools on PD days and holidays and the right to enter into such agreements as they relate to students aged six to 12 years.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: A point of clarification: You mentioned in your explanatory notes that it is referencing "transition period" only. In the section, it makes no reference to transition. Can you explain to the committee what the transition period would involve, in terms of months or years?

Ms. Leeanna Pendergast: I'm simply saying that this, combined with the transition process, gives a balanced approach. I'm not speaking to the transition process.

Ms. Sylvia Jones: Does it mean that the partnerships are only available as a transitional motion and not for long-term agreements?

Ms. Leeanna Pendergast: I'm sorry, you're speaking specifically about ages six to 12?

Ms. Sylvia Jones: Do the partnerships that would enter into an agreement under the Day Nurseries Act—are they only available for a transition period? Are the partnership agreements only available for a transition period, or are they available for the long term?

Ms. Leeanna Pendergast: This is the same question as before. That will be dealt with in the regulations.

Ms. Sylvia Jones: So we don't know.

Ms. Leeanna Pendergast: Correct. I can't tell you that right now. It will be dealt with in the regulations.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer.

Mrs. Elizabeth Witmer: Maybe you do have the answer to this: How long is the transition period?

Ms. Leeanna Pendergast: I think this goes back to your original question, the idea of how long. I think that remains to be seen.

Mrs. Elizabeth Witmer: Are we talking one year, two years, three years?

Ms. Leeanna Pendergast: I won't give you an answer right now, and I can't. I think that remains to be seen. The consultations will begin if this statute is passed, and all of that will be decided subsequently. Given the rural demographics of some ridings and given the urban, it's going to be different across the province, so I would be remiss to give you a specific answer.

Mrs. Elizabeth Witmer: So at the end of the day, after the transition period, anybody who is currently a third party in the provision of these services would no longer be provided with the opportunity to collaborate with school boards? All of these programs would now become the jurisdiction and responsibility of the board to provide? Is that right?

Ms. Leeanna Pendergast: I can't say that, Ms. Witmer, simply because that's what's to be determined in regulation. So at this point, until these consultations are complete, I simply can't say that.

Mrs. Elizabeth Witmer: So then all those people who came in here—and I would say that the bulk of the presentations were from third party providers of children's services, people who had been providing services for a long period of time, in some cases decades, and whose livelihood depended on providing child care in conjunction with school boards—would see the opportunity to collaborate with their community school totally eliminated.

You sometimes wonder why we have public hearings, because here you've got a lot of people stepping forward and expressing an interest in partnering with school boards, and it now appears that all of the lobbying and coming in here was maybe for naught. Because at the end of the day, the government's not going to continue to allow them the opportunity to provide those services, whether it's the not-for-profit daycare, whether it's the Y, whether it's the Boys and Girls Club or Big Sisters etc. The list goes on and on. So you ask yourself, "Why do we have the hearings?" Why did people come in and, I believe, express some legitimate concerns? Why did people want to continue to partner and collaborate with school boards? I thought that was what we wanted to do in our communities.

It looks to me that the end result will be the same as it originally was: After a year, maybe two years, that opportunity for partnering won't be there and we'll have constructed our silo again. That has to be disappointing to the taxpayers of this province who made an effort to come and share their views.

Ms. Leeanna Pendergast: I am going on the record to disagree with Ms. Witmer. In the public hearings, we—

Mrs. Elizabeth Witmer: You can do that.

Ms. Leeanna Pendergast: Thank you. See my hesitation?

Mrs. Elizabeth Witmer: It's okay.

Ms. Leeanna Pendergast: Thank you. In the public hearings, we heard the concerns of the third party stakeholders, and we do agree that there needs to be significant flexibility. We're listening to them closely. We will need to acknowledge third party arrangements through the transition, and the right way to respond to that, of course, is in the regulatory authority.

The third party service providers have expressed a satisfaction and are pleased, but we will be continuing to consult and discuss. So I would say that I have a different perspective on that: that they are pleased and will agree that we're on the right track.

Mrs. Elizabeth Witmer: Well, they have to say that or else you won't continue to talk to them.

The Chair (Mr. Shafiq Qaadri): Are there further comments on government motion 24.1? Seeing none, we'll proceed to the vote. Those in favour of government motion 24.1? Those opposed? I declare it carried.

Government motion 25?

Ms. Leeanna Pendergast: I move that subsection 260(1) of the Education Act, as set out in section 10 of the bill, be amended by striking out "class" in both places where it appears and substituting in each case "unit."

This simply responds to stakeholder concerns, clarifying language so that references to "class" refer to core day, JK and K, and extended day program will be described as "unit" and not "class."

The Chair (Mr. Shafiq Qaadri): Any comments on government motion 25? Seeing none, we'll proceed to the vote. Those in favour of government motion 25? Those opposed? Motion 25 is carried.

Government motion 26?

1530

Ms. Leeanna Pendergast: I move that subsection 260(2) of the Education Act, as set out in section 10 of the bill, be amended by striking out "an early childhood educator to each position" and substituting "early childhood educators to positions."

Again, it ensures the boards have operational flexibility to staff programs appropriately with respect to the new integrated extended-day program.

The Chair (Mr. Shafiq Qaadri): Further comments on motion 26? Seeing none, we'll proceed to the vote. Those in favour of government motion 26? Opposed? Carried.

NDP motion 27: Mr. Marchese.

Mr. Rosario Marchese: Mr. Chair, is this out of order as well since we dealt with—

The Chair (Mr. Shafiq Qaadri): As far as I know, it is entirely in order. You may proceed.

Mr. Rosario Marchese: I move that section 260 of the Education Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Employment of early childhood educators

"(3) A board shall employ an early childhood educator appointed under subsection (2) in a full-time capacity,

based on a seven-hour continuous work day, in a position designated under subsection (1) or in a position designated under paragraph 12.0.1 of subsection 170(1)."

I think the motion is explanatory. We dealt with it. I made arguments earlier on and the government opposed it.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rosario Marchese: The government members opposed it.

Ms. Leeanna Pendergast: We did.

The Chair (Mr. Shafiq Qaadri): Seeing none, we'll proceed to the vote. Those in favour of NDP motion 27? Those opposed? Motion 27 is defeated.

Government motion 28: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that subsection 260.1(3) of the Education Act, as set out in section 10 of the bill, be amended by striking out "paragraph 23" and substituting "paragraph 23.1."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rosario Marchese: Explanation?

The Chair (Mr. Shafiq Qaadri): Explanation, please.

Ms. Leeanna Pendergast: It's simply a housekeeping amendment. It's complementary to motion 19.

Mr. Rosario Marchese: That's pretty clear. Thank you.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 28? Those opposed? Motion 28 is carried.

Government motion 29: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 260.2 of the Education Act, as set out in section 10 of the bill, be struck out and the following substituted:

"Delegation by principal

"260.2 A principal may delegate any of his or her duties under this act that relate to the operation of extended day programs to,

"(a) a vice principal; or

"(b) another person, if approved by the board in accordance with the regulations, policies or guidelines made under this part."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: We're responding to concerns of stakeholders that teachers could be delegated duties relating to extended-day programs. We could not entirely remove the option of delegation to teachers because it could compromise options to address emergency situations. Rather, if these provisions are passed, we'll make regulations, policies and guidelines to identify specific conditions or criteria governing the delegation of extended-day duties.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rosario Marchese: I don't think there's an answer, but I think what this suggests is that principals will have additional responsibilities, and where they can't do this because they are so full of work in other areas, they can delegate this to a vice-principal—assuming they're not overworked already, they'll be able to manage this—or another person.

I wonder if the parliamentary assistant can comment—this is a new program with a great deal of administrative

responsibility. I'm assuming there is no extra money for this for those who would be managing it. Is that correct?

Ms. Leeanna Pendergast: I have no comment on that at this time.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote on government motion 29. Those in favour? Those opposed? Motion 29 is carried.

NDP motion 30: Mr. Marchese.

Mr. Rosario Marchese: I move that part IX.1 of the Education Act, as set out in section 10 of the bill, be amended by adding the following section:

"Compensation to day nurseries

"260.4.2(1) The minister shall provide a day nursery established under the Day Nurseries Act with financial support, in the amount calculated in accordance with regulations made under"—

Le Président (M. Shafiq Qaadri): Monsieur Marchese, je vous invite, s'il vous plaît, de présenter motion 30.

Mr. Rosario Marchese: Oh, again. Okay, I'm doing 31. You picked it up again. Thank you very much.

I move that Part IX.1 of the Education Act, as set out in section 10 of the bill, be amended by adding the following section:

"Plan to implement report on early learning

"260.4.1 The minister shall develop a plan to implement, by January 1, 2015, all of the recommendations made in the report entitled With Our Best Future in Mind: Implementing Early Learning in Ontario, dated June 2009, prepared by Charles E. Pascal."

I want to say that all of the deputations, with few exceptions, were very supportive of Charles Pascal and his report. Charles Pascal was the one who told us, "Don't cherry-pick, because if you do that, you're going to create some problems." This creates and will create many, many problems. That's why he recommended that his full report be implemented in three years. The government is saying, at least as I read the bill, that it will be done in five, and now everything I read, from the Toronto Star to Mike Colle's newsletters, says that this program, the current one—the one the government is doing, not Pascal—will be done in six years: not five, but six.

We fear that this program may even take longer than the five that now has become six, and we are profoundly worried about the manner in which we're doing it, because it isn't what Pascal had proposed. We were hoping that the minister could indicate—because they knew this motion was before us, and the minister would know this motion was before us—that they could and would be seriously considering his report, and that they would give us a plan to implement his recommendations by 2015. We think that it was a very good report, which everyone was looking forward to and which they supported.

We want to hear whether the government members here have any direction as to what they want to do with this motion: whether they're going to support it or oppose it or whether they have a comment on it. I'm hoping that they will be positive in their response.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: At first I hear you telling us to hurry up, then I hear you telling us to slow down. Again, I want to reiterate that that's why the government is taking a measured, balanced approach.

I do want to comment specifically on your motion. It is not consistent with the timelines proposed by Dr. Pascal to have full implementation by 2020, nor is it consistent with the advice of Dr. Pascal to roll out different recommendations at different phases. I would refer you to page 52 in Dr. Pascal's document. He spells it out quite clearly on that page. In the full-day extended learning, the implementation is still in five years.

Mr. Rosario Marchese: I'm glad you clarified the five-year part. So Pascal said to implement his report by 2020? Is that what I heard you say?

Ms. Leeanna Pendergast: Yes, the implementation of a number of measures by 2020.

Mr. Rosario Marchese: I see. Not in three years, but by 2020?

Ms. Leeanna Pendergast: I would just refer you to page 52. His timelines are quite extensive in the report.

Mr. Rosario Marchese: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Further comments? Those in favour of NDP motion 30? Those opposed? NDP motion 30 is defeated.

NDP motion 31.

Mr. Rosario Marchese: I move that part IX.1 of the Education Act, as set out in section 10 of the bill, be amended by adding the following section:

"Compensation to day nurseries

"260.4.2(1) The minister shall provide a day nursery established under the Day Nurseries Act with financial support, in the amount calculated in accordance with regulations made under subsection (2), if the number of children enrolled in the day nursery decreases as a result of the provision of full-day junior kindergarten, kindergarten or extended day programs by a board.

"Same

"(2) The Lieutenant Governor in Council may make regulations respecting the calculation of the amount that a day nursery is entitled to under subsection (1).

"Same

"(3) Subsection (1) does not apply unless money is appropriated by the Legislature for the purpose of this section."

1540

Clearly, the government recognizes that this will cause some problems to many who provide child care and extended-day programs. It's heartening to hear the parliamentary assistant, who said originally that there was going to be 63 million in stabilization dollars, and then she announced 10 or 15 minutes later that the minister will announce additional money.

Given what she said, that they will announce additional money, I'm assuming that she would be supporting my motion here, which clearly would support these people who will suffer as a result of this initiative. I'm waiting to hear her answer.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. Are there comments?

Ms. Leeanna Pendergast: It's my pleasure to respond, Mr. Marchese. I'm not quite sure how to say it again and again and again, so I'm just going to reiterate briefly that there's planning under way. So you can take that piece at this point to that.

But I do want to say that the government has also indicated that the government will be working with the municipal sector and other partners on measures to help stabilize the child care sector. So that keeps it kind of high-level.

Mr. Rosario Marchese: So doesn't my motion help you to do that? You're saying exactly what I'm saying. We suggest a formula, of course.

Ms. Leeanna Pendergast: I think we've been down this road before, but I'll say it again: These amendments proposed by this motion do not belong in the Education Act; they do not belong in statute.

Mr. Rosario Marchese: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed to the vote. Those in favour of NDP motion 31? Those opposed? NDP motion 31 is defeated.

PC motion 32: Ms. Witmer.

Mrs. Elizabeth Witmer: I move that section 260.5 of the Education Act, as set out in section 10 of the bill, be struck out.

The reason for this is that this section does give the minister extremely broad power to issue guidelines and procedures to virtually any part of the operation of the extended-day program, and there are presently no checks and balances on the minister's decision, as well as no formal guidelines or protocol for public consultation on these subdecisions.

I think in just listening today, it's becoming more and more clear that this program is somewhat fuzzy and there are a lot of omissions regarding clarity as far as the roll-out and implementation of the program. This is directed to the concern that the minister currently has the unfettered power to make whatever changes he or she wants at any time, so the programs can be changed on a whim by anyone. That's to remove that power.

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: Just quickly, asking for this to be struck out actually contravenes your earlier comments asking for flexibility, because the policies and guidelines authorized in this section are actually the ones that provide the necessary flexibility to support the implementation of the new program. Therefore, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. Witmer.

Mrs. Elizabeth Witmer: I'm not comforted by the fact that anybody is listening anyway because, as I say, I think a lot of people appeared before us and are going to be disappointed that their concerns are not being addressed.

The Chair (Mr. Shafiq Qaadri): Mr. McMeekin.

Mr. Ted McMeekin: Just very briefly, I'm interested in the genericness of the comments made. My concern is

that in the absence of having this flexibility, you also lose potentially a lot of accountability, and we can't have it both ways. We want to make sure we that correct the fuzziness and move ourselves forward and work through a transition period to build relationships potentially with third party partners to evaluate that and work together as we sail this ship into uncharted waters, and then, at the same time, tie our hands by saying that we're not going to give the minister any power to do that.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before we proceed to the vote? Those in favour of PC motion 32? Those opposed? I declare PC motion 32 to have been defeated.

Government motion 33.

Ms. Leeanna Pendergast: I move that subsection 260.5(2) of the Education Act, as set out in section 10 of the bill, be amended,

(a) by striking out "class" in clause (i) in both places where it appears and substituting in each case "unit";

(b) by striking out "classes" in clause (j) in the portion before subclause (i) and substituting "units";

(c) by striking out "classes" in subclause (j)(i) and substituting "units"; and

(d) by striking out "classes" in sub-subclause (j)(ii)(A) and substituting "units."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: Simply just to clear any confusion that could arise from the use of "class" to refer to both core-day and extended-day programs.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? We'll proceed to the vote. Those in favour of government motion 33? Those opposed? Motion 33, carried.

Government motion 34.

Ms. Leeanna Pendergast: I move that subsection 260.5(2) of the Education Act, as set out in section 10 of the bill, be amended by adding the following clause:

"(m) respecting the approval by a board of a delegation under clause 260.2(b)."

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 34? Those opposed? Motion 34 is carried.

PC motion 35: Ms. Witmer.

Mrs. Elizabeth Witmer: You'll be relieved to know that, based on our discussions, I'm going to withdraw that motion and I don't have to read those three pages into the record.

The Chair (Mr. Shafiq Qaadri): PC motion 35 is withdrawn.

Shall section 10, as amended, carry? Carried.

We'll do block considerations of sections 11 to 15, inclusive, as we have received no motions to date. Those in favour of sections 11 to 15 carrying? Carried.

We'll now proceed to section 16: government motion 36.

Ms. Leeanna Pendergast: I move that subsection 264.1(2) of the Education Act, as set out in section 16 of the bill, be amended by,

(a) striking out "kindergarten and extended day programs" in paragraph 2 at the end and substituting "and kindergarten"; and

(b) striking out "kindergarten and extended day programs" in paragraph 5 at the end and substituting "and kindergarten."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Leeanna Pendergast: Simply to respond to stakeholder concerns regarding the clarity of roles and responsibilities.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of government motion 36? Those opposed? Motion 36 is carried.

Government motion 37: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that subsection 264.1(3) of the Education Act, as set out in section 16 of the bill, be amended and the following substituted:

"Duties of teachers not limited

"(3) Nothing in this section limits any duties of teachers under this act, including duties related to report cards, instruction, training and evaluation of the progress of pupils in junior kindergarten and kindergarten, the management of junior kindergarten and kindergarten classes, and the preparation of teaching plans.

"Membership in colleges

"(4) Nothing in this section limits the operation of sections 262 and 262.1."

The Chair (Mr. Shafiq Qaadri): Further comments? We'll then proceed to the vote. Those in favour of government motion 37? Those opposed? Motion 37 is carried.

Shall section 16, as amended, carry? Carried.

Section 17: government motion 38.

Ms. Leeanna Pendergast: I move that clause 265(1)(e) of the Education Act, as set out in section 17 of the bill, be amended by striking out "classes to designated early childhood educators" at the end and substituting "junior kindergarten or kindergarten classes or extended day program units to designated early childhood educators."

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote. Those in favour of government motion 38? Those opposed? Motion 38 is carried.

Shall section 17, as amended, carry? Carried.

Block consideration of sections 18 to 20: Shall they carry? Carried.

Section 21: government motion 39, Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 277.47 of the Education Act, as set out in section 21 of the bill, be amended by adding the following subsection:

"Same

"(4) A board shall not require a person employed by the board as a teacher to mentor a new designated early childhood educator."

The Chair (Mr. Shafiq Qaadri): Any comments? Those in favour of government motion 39? Those opposed? Motion 39 is carried.

Motion 40: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 277.48 of the Education Act, as set out in section 21 of the bill, be amended by adding the following subsection:

“Same

“(3) A board shall not require a person employed by the board as a teacher to conduct or participate in performance appraisals of designated early childhood educators.”

The Chair (Mr. Shafiq Qaadri): Comments? We’ll proceed to the vote. Those in favour of government motion 40? Those opposed? Carried.

Motion 41: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 277.50 of the Education Act, as set out in section 21 of the bill, be amended by adding the following subsections:

“Information and disclosure

“(3.1) For the purpose of taking action in response to a board’s report made under subsection (1), (2) or (3), the college may require the board to provide the college with information, including personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act or section 28 of the Municipal Freedom of Information and Protection of Privacy Act, in respect of members of the college, and the board shall provide such information.

“Limits on collection and use

“(3.2). The college shall not collect or use more personal information than is reasonably necessary to meet the purpose of the collection or use.”

The Chair (Mr. Shafiq Qaadri): Comments? We’ll proceed with the vote. Those in favour of government motion 41? Those opposed? Motion 41 is carried.

Government motion 42.

Ms. Leeanna Pendergast: I move that paragraph 1 of subsection 277.51(2) of the Education Act, as set out in section 21 of the bill, be amended by striking out “was made” at the end and substituting “was made, if the college has knowledge of that employment.”

The Chair (Mr. Shafiq Qaadri): Comments? We’ll proceed to the vote. Those in favour of government motion 42? Those opposed? Motion 42 is carried.

Government motion 43.

Ms. Leeanna Pendergast: I move that part X.3 of the Education Act, as set out in section 21 of the bill, be amended by adding the following section:

“Immunity of College of Early Childhood Educators

“277.52 No proceeding for damages shall be instituted against the College of Early Childhood Educators or the registrar of that college for any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under sections 277.50 or 277.51 of this act, or for any neglect or default in the performance or exercise in good faith of such duty or power.”

The Chair (Mr. Shafiq Qaadri): Any comments? Those in favour of government motion 43? Those opposed? Motion 43 carries.

Shall section 21, as amended, carry? Carried.

Block consideration of sections 22 to 34: If there’s no objection from the committee, we’ll proceed. Shall sections 22 to 34 carry? Carried.

There’s an issue with reference to the preamble. I’ll offer the floor to the PC Party, if you wish it.

Mrs. Elizabeth Witmer: I’m going to move that the preamble to the bill be amended by striking out “strong local partnerships” in paragraph 4 and substituting “strong local partnerships among school boards and not-for-profit community providers.”

The Chair (Mr. Shafiq Qaadri): Before you proceed, I am advised by the various powers that be that the ruling needs to be made on the admissibility of this amendment, and apparently the preamble of this bill—referred to a committee after second reading is admissible only if it is rendered necessary by amendments made to the bill. As Chair, I am obligated to rule that the preamble does not reflect amendments made to Bill 242 and therefore the motion is out of order. If you would require further elaboration from wiser heads than mine, it is available.

Mrs. Elizabeth Witmer: No, I understand and I was anticipating that. However, I wanted to reiterate the point.

I have a question for clarification: When we’re talking now about extended-day programs for students who are enrolled in either the junior kindergarten or the kindergarten program outside of the school day or we’re talking about programs for six- to 12-year-olds, did I hear correctly that, moving forward, there will only be a transition period for the not-for-profit daycare, Y etc. providers, but over time those people will no longer be welcome to provide services in our schools? Is it only in the short term?

Ms. Leeanna Pendergast: I know you’ve asked this several times, and my answer hasn’t changed. If the bill passes, then it will be dealt with in the regulations, and the consultations will continue to determine that very answer that you keep asking for.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: I just wanted to take this opportunity to say that we should just scrap that whole line, because it says, “Implementing full day learning will require strong local partnerships under a provincial framework.” There are no partnerships with anyone. I’m not quite sure why that is even there. It almost doesn’t make any sense that it should be there, but I guess we’ll say that in our third reading debate when we have a chance to speak to the bill.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Shall the preamble of the bill carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 242, as amended, carry? Carried.

Shall the bill be reported to the House, as amended? Carried.

Is there any further business before this committee?

This committee is adjourned.

The committee adjourned at 1553.

CONTENTS

Monday 12 April 2010

Full Day Early Learning Statute Law Amendment Act, 2010, Bill 242, Mrs. Dombrowsky / Loi de 2010 modifiant des lois en ce qui concerne l'apprentissage des jeunes enfants à temps plein, projet de loi 242, Mme Dombrowsky	SP-83
---	-------

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mr. Rosario Marchese (Trinity–Spadina ND)

Ms. Leeanna Pendergast (Kitchener–Conestoga L)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Danna Brown, legislative counsel

Ms. Elaine Campbell, research officer,

Legislative Research Service



SP-5

SP-5

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 10 May 2010

Journal des débats (Hansard)

Lundi 10 mai 2010

Standing Committee on Social Policy

Retirement Homes
Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur les maisons
de retraite



Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 10 May 2010

Lundi 10 mai 2010

The committee met at 1400 in committee room 1.

The Chair (Mr. Shafiq Qaadri): I call this meeting of the Standing Committee on Social Policy to order. As you know, we're here to consider Bill 21, An Act to regulate retirement homes.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): As our very first order of business, I now introduce to the committee a recess for voting. We may have some time for the report of the subcommittee. Actually, it's a bit long. Mr. Johnson, please proceed rapidentment.

Mr. Rick Johnson: I would like to move the report of the subcommittee. Do you want me to read the whole thing?

The Clerk of the Committee (Mr. Katch Koch): Yes, please.

Mr. Rick Johnson: Your subcommittee on committee business met on Monday, April 26, 2010, to consider the method of proceeding on Bill 21, An Act to regulate retirement homes, and recommends the following:

(1) That the committee hold two days of public hearings at Queen's Park, on Monday, May 10, and Tuesday, May 11, 2010.

(2) That the committee clerk, with the authority of the Chair, post information regarding the committee's business one day in the following publications: the Globe and Mail, the Toronto Star, L'Express, the Hamilton Spectator, and in a weekly publications in the following locations: Mississauga, Orillia, Oakville, Huntsville and Niagara Falls.

(3) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That interested people who wish to be considered to make an oral presentation on Bill 21 should contact the committee clerk by 12 noon, Thursday, May 6, 2010.

(5) That on Thursday, May 6, 2010, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(6) That groups and individuals be offered 10 minutes in which to make a presentation.

(7) That if all groups and individuals can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(8) That if all groups and individuals cannot be scheduled, each of the subcommittee members provide

the committee clerk with a prioritized list of names of groups and individuals they would like to hear from by 5 p.m., May 6, 2010, and that these names must be selected from the original list distributed by the committee clerk to the subcommittee members.

(9) That if there are presentation times available, late requests be handled on a first-come, first-served basis.

(10) That the deadline, for administrative purposes, for filing amendments be 5 p.m., Thursday, May 13, 2010.

(11) That the deadline for written submissions be 5 p.m., Friday, May 14, 2010.

(12) That the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of Bill 21.

(13) That the committee begin clause-by-clause consideration of Bill 21 on Monday, May 17, 2010.

(14) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): As per protocol, I would usually invite members to comment, but I will defer that because we have a vote in four minutes and 51 seconds. The committee is now in recess.

The committee recessed from 1403 to 1424.

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la politique sociale. Nous commençons. Y a-t-il des questions sur le rapport?

Ladies and gentlemen and colleagues, we call to order once again the committee on social policy in order to consider Bill 21, An Act to regulate retirement homes.

As you've seen, just previous to the break for the vote, we had the subcommittee report read into the record. Are there any questions or comments, of an urgent nature only, regarding that subcommittee report?

Those in favour of adopting the subcommittee report as read? Those opposed? The subcommittee report is carried.

RETIREMENT HOMES ACT, 2010

LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

ADVOCACY CENTRE FOR THE ELDERLY

The Chair (Mr. Shafiq Qaadri): I'd now invite our presenters to please begin. Just in terms of protocol, as all committee presenters will know, you have 10 minutes in which to make your presentation. Any remaining time within those 10 minutes will be divided evenly amongst the parties for questions. The timing will be enforced with polite but military precision.

I would now invite Ms. Wahl and Ms. Romano, on behalf of the Advocacy Centre for the Elderly, to please begin. Welcome, ladies.

Ms. Judith Wahl: I'm Judith Wahl. This is my colleague Lisa Romano. We're both lawyers at the Advocacy Centre for the Elderly, which is a legal clinic. We've had extensive experience acting on behalf of tenants in retirement homes. In fact, we were counsel to the tenants of The Grenadier, which was the case that resulted in retirement homes being confirmed as being subject to tenancy legislation and rent control legislation, and that led to amendments to the Residential Tenancies Act.

It's based on this extensive experience on a one-to-one basis with our clients that we do see the need for retirement home regulation that addresses care services, so it would complement what's already in the Residential Tenancies Act, but with all due respect, we're extremely disappointed with this bill.

We submit that this bill will be a major step backwards. It will give too much control to the retirement home industry; it will do little to protect retirement home tenants; it's not transparent; it will create two-tier medicine, requiring seniors to pay for their own health care and for services that otherwise are publicly funded through the long-term-care homes system; and instead of a continuum of services, of retirement homes being part of the continuum of housing—a very important part of the continuum of housing for seniors—it's creating a direct parallel system to the long-term-care homes, without the regulatory structure and without the controls.

We've given you a detailed brief. I'm just going to hit on some of the highlights in that.

First of all, this point about the bill setting up retirement homes as a parallel system to long-term care to deliver exactly the same services that long-term-care homes deliver with public funding: This bill will recognize that the authority of retirement homes is the same as long-term-care homes, but with significant differences. First of all, seniors will be paying for their health care on a private-pay basis. I think this is the thin edge of the wedge. You're creating a precedent that will only lead to other problems down the line in health care.

Also, the protections for seniors in retirement homes will be much less than in a long-term-care home setting. We find it totally illogical that the government would regulate long-term-care homes to such an extent, under the Long-Term Care Homes Act, and then allow retirement homes to provide the same care without that degree of regulation. Surely there was seen to be a need for that

regulation if we're talking about the same people—a vulnerable population—living in both oversights. This bill leaves regulation to be light, much less rigorous and under the control of the retirement home authority, which we predict, from the structure that's set out in the bill, will be industry-dominated, industry-controlled and industry self-regulation. To use the phrase, it's the fox guarding the henhouse, and I think that's a problem, based on our experience already, acting for retirement home tenants, many of whom do not know their rights in that setting now—in fact, we find that some of the operators seem to actively not provide people with the information so that they understand their rights.

What's particularly ironic to me about this is, if you look at what has been happening with the ALC patients, the alternate-level-of-care patients, some of the hospitals were trying to discharge people into retirement homes. We were one of the many groups that advocated with the Ministry of Health to step in. The Ministry of Health did step in to ensure that if any retirement home beds were used as long-term-care beds, they had to be authorized by the Ministry of Health and come under the purview of the Ministry of Health for that purpose and under their regulation in order to be used. These were certainly recommendations that came out of the coroner's office. It was one of our clients, who had been moved to a retirement home from a hospital and should have remained in the long-term-care system, who died.

1430

Our second point is that the retirement home authority is industry-dominated. There are no requirements that there be any consumers or other public representatives on that board. The government could actually appoint industry reps if the government chose to do that. As well, after the two-year period, it will be electing itself. To put it bluntly, I find this to be a rather incestuous structure. Although the bill tries to set up this authority as though it is going to be some kind of accountable body, we see very little accountability built into the act.

Another point about residents' rights: Although the bill sets out some residents' rights, which, for the most part, are a reiteration of rights in other legislation—and that's fair enough; you articulate it to make it plainer—the list of residents' rights is not complete. What I find interestingly absent is the right of advocacy or rights advice.

The bill would also allow retirement homes to apply restraints and detain tenants in secure units. They would also have much fewer rights. If you look at the restraints provisions in the long-term-care homes legislation, they're quite rigorous. This is quite the lite version of that. Again, it seems illogical that you'd have in one system a very complex system and in another a very simplistic one.

The complaints officer, where tenants can make complaints: They would complain to the complaints officer, who is under the control of the regulatory authority, which, again, we're saying is going to be industry-dominated. So complaints by the tenants will be heard

only by that complaints officer. There's no right of review or appeal to an external body like a court or tribunal. I also find it interesting that the retirement home licensees, if they're refused a licence, get to go to an external body for a review—both a tribunal and a court—and the tenants' complaints will end up stopping at the complaints officer.

If the bill goes through as at present, there are going to be two major pieces of legislation that apply to retirement home tenancies: the Retirement Homes Act and the Residential Tenancies Act. In one, people are called "residents"; in the other, they're called "tenants." This is going to cause all kinds of confusion. We've been starting to plot how the two acts match up. There will be retirement homes that are not care homes, as defined by the Residential Tenancies Act. So some of the retirement home tenants will not have the coverage of the tenancy legislation; others will. It's going to be incredibly confusing. It's just been poorly drafted in that respect.

We have some concerns about the fees and the system of regulation. The authority is to be paid for by the retirement home industry itself through licensing fees, but unless it's properly funded, it's going to have no teeth. The tenants will really be at risk at that point. There may not be sufficient funding to do this from the fees that will be charged.

This is an important sector that provides housing to low-income people with supports. We can't see how the low-income retirement homes would continue to exist unless people are subsidized to pay the fees of the retirement homes. You'll see our comments about fees and the need to provide subsidies to low-income tenants.

This bill does not require retirement homes to have sprinklers. I'll leave it to other people to give more details on that, but we would support the inclusion of requirements for sprinklers. We were counsel on a major inquest into deaths in a retirement home that directly resulted from the lack of fire protections.

In conclusion, what we would say in summary is that this bill requires too many amendments to be done at committee. It should be referred back to the powers that be within the system for extensive revision. If this bill passes, I think you're going to be losing a great opportunity to do it right this time. There needs to be regulation. There have been frequent hearings and inquests that have called for regulation. It's going to put retirement home tenants at risk. We're going to create an industry-dominated system. We need oversight by the Ministry of Health and Long-Term Care, because this is care.

I'll end at that, and I'm open for any questions.

The Chair (Mr. Shafiq Qaadri): Thank you. We have 30 seconds per side, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: With 30 seconds, I will say thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: In 30 seconds, I concur in everything you said. As you know, I have also been pushing

for sprinkler systems for all homes, even homes built before 1990. I don't think there should be any distinction between before and after 1990; they're all elderly people who have to be protected.

Also, I haven't seen anyone comment on protection for seniors when it comes to financial control of their estates. I don't see that anywhere.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. You mentioned that retirement homes would be dominated by the operators. Don't you feel that the competencies, as assigned by the minister, are important for the people who will be running the retirement homes?

The Chair (Mr. Shafiq Qaadri): I'm afraid that question will have to remain rhetorical.

On behalf of the committee, I thank Ms. Wahl and Ms. Romano for their presentation on behalf of the Advocacy Centre for the Elderly.

ONTARIO ASSOCIATION OF NON-PROFIT HOMES AND SERVICES FOR SENIORS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Rubin, of the Ontario Association of Non-Profit Homes and Services for Seniors, and colleague.

Mr. Gerry Martiniuk: Chair?

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk.

Mr. Gerry Martiniuk: Are we to receive a précis of the presentations?

The Chair (Mr. Shafiq Qaadri): You are most welcome to receive—I think you have official authorization to legislative research.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Shafiq Qaadri): Welcome. Please introduce yourselves and begin.

Ms. Donna Rubin: My name is Donna Rubin, CEO of the Ontario Association of Non-Profit Homes and Services for Seniors. With me today is Paul Dowling, a senior housing consultant with OANHSS.

We've given you a document containing the main points of our presentation. It's not our full submission; that will be coming in separately by the deadline.

First, OANHSS is an association representing not-for-profit providers of housing, long-term care and community services. Our housing organizations include social housing, supportive housing, life lease and non-profit retirement homes, and that's just a few designations of an array of housing providers. The settings are often within a continuum that might even have long-term-care, supportive housing, independent social housing and life lease, and a number of these providers have mixed-use buildings as well. So you might have life-lease and rental housing. This is going to be a little more relevant later on when I speak to it more specifically.

The issue for us is that while we support the intent of the bill in providing accountability and a regulatory framework, it doesn't seem to go far enough in terms of regulating the variety of housing settings. In poring over

the bill recently, it was kind of a surprise to us to find out that for the most part our members are likely not going to be captured within this bill, and we've been waiting for this legislation for years. So it's not the intention to capture social housing, supportive housing is not part of it and neither is life lease. Our key recommendation to you today is that care and services provided to seniors, regardless of where they live and regardless of where these are being delivered, must meet a consistent minimum standard.

We recognize that it's going to be difficult to undertake regulating care and services in all sorts of settings. But we think it's misguided to look at the premises, and that you should be looking more, if housing is being provided and care is being delivered, that that care be regulated regardless of the setting. We don't think government should be constrained in its ability to protect vulnerable seniors by the type of setting they live in. All seniors deserve the same protections.

I should identify that we're an employer group, and a lot of my members would probably be saying, "Oh, we're not likely captured by this. We don't have the burden of enforcing this legislation; we don't have to deal with it." But we believe it's the right thing to do, and we've been waiting for a long time for housing to be regulated in this province. We think the government needs to be forward-thinking and looking at how to do that and to do it properly for the longer haul.

We think it's in the public interest to ensure that care services, regardless of delivery setting or origin of care service, meet a consistent minimum standard. Right now, as I was mentioning earlier, there are all types—a myriad—of housing providers. On one campus, in one unit, on one floor you can have a certain type mixed in with another. I raise this because of the complexity for an operator. This bill would be very difficult to manage. So we think it's more important to provide oversight on the care side than on the premises or the building.

1440

Now I'm going to switch and speak more specifically to different provisions of the bill and provide a few quick recommendations. One of the concerns is on the care-packages area and choice. Of course, we understand that the act wants to enable residents to opt in and out of choice for the services that are provided. But housing providers do need to have the ability to offer choice in terms of a package often, because you have to determine what the complement is for that package and how to staff it appropriately. So if you have a number of seniors coming in, they might all, for example, decide that a basic package might be that you take 15 meals a week or that you have access to other services, regardless of whether you take them or not, and then if you go into a higher level of package, that might be optional. But I think it's important to realize that service packages are just not up to every individual to opt in and out. It's just not feasible, often, to provide that type of service.

On the next slide, we have some concerns regarding the external care service requirements. This is the re-

quirement that says, in section 62, that we've got to look at establishing protocols and reporting on the provision outcomes and effectiveness of services that are being brought in by the tenant outside of the service provider. We think that those requirements need to be very clear. It's a little grey in the act right now, and if we're going to be on the hook for the care we're providing, that's one thing, but when tenants bring in their own care, we think the delineation and the accountabilities have to be very clear. It says in the act that we're not responsible to oversee the quality of the care that's being brought in by people whom tenants hire, but there are these provisions, and I guess we're signalling that they aren't that clear.

In terms of the affordability, the expectation is that the act is going to be self-sustaining and that the costs are going to be covered through licensing fees. For a not-for-profit provider, there's going to be very limited option to transfer costs onto tenants. We really are very concerned about providing maximum care with an affordable care option. So we're concerned about how this model is going to be self-sustaining through the providers, at least for the not-for-profit component of the retirement home scene. We want to make sure that it's not a financial burden on not-for-profit providers and that it's not prohibitive to participate.

As was mentioned earlier, we also have some concerns about the power and accountability and transparency of the authority. We saw provisions that reports don't have to be made public up to a year and that the decisions for the authority are final in terms of no-appeal provisions for complainants. We think that it would be wise, certainly on this last point, to make an appeal process that mirrors the new one that's coming into long-term care, where there's an option to appeal to the Health Services Appeal and Review Board. We think it would be a wise decision to have a broader ability for complainants to make an appeal if need be.

We also think there should be consumer group representation on this board as well, and we think that would go far in terms of the accountability and the transparency.

In conclusion, in the current environment, we summarize that, both in long-term care and in home care, we're trying to support seniors in whatever setting they choose to live. We think we're going to find more and more housing options where people are getting care packages delivered to their apartment, to their home, regardless of where it is. Again, we think that this should be less about the setting in which a senior resides and more about regulating the care services themselves. Having said that, we still see this bill as a positive step forward, and it will regulate a major component of the seniors' housing sector; we just think it needs to go further.

Thank you very much.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Rubin. Twenty seconds per side. Mr. Miller.

Mr. Paul Miller: Twenty seconds? I agree with you on 90% of it. I can see that there's a recurring theme here of the concern about the authority. We brought that

forward from our party, and we're very concerned about the fox guarding the henhouse.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Rubin and Mr. Dowling, for your deputation and presentation on behalf of the Ontario Association of Non-Profit Homes and Services for Seniors.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Shafiq Qaadri): I'd now invite Ms. Rennick of CUPE, the Canadian Union of Public Employees, and entourage to please come forward. Welcome. Please introduce yourselves and please begin now.

Ms. Candace Rennick: My name is Candace Rennick and I'm the secretary-treasurer of CUPE Ontario. I'm joined this afternoon by my colleague Shalom Schachter, CUPE research staff. Together we're going to make the presentation this afternoon.

CUPE in Ontario represents 230,000 members. The majority of our members work in the broader public sector, but CUPE represents several thousand members, covered by 51 collective agreements, who work in retirement homes across Ontario.

It is our contention that the government should be focused on a comprehensive strategy for a continuum of elder care that ensures universal health care access and public funding while increasing public provision for long-term-care, home care, as well as aging-at-home and assisted-living services.

Retirement homes are private, predominantly for-profit enterprises where residents pay full fees out of pocket. As such, these residences have no significant role to play in a system for elder health and care where access is universal.

While CUPE Ontario supports in principle the government's goal to enact a regulatory regime for retirement homes in Ontario to better protect vulnerable seniors residing in these currently unregulated private residences, Bill 21, as written, currently falls short of that goal.

It's troubling that Bill 21, introduced by the seniors' secretariat, does not fall under any particular government ministry as part of the legislative regime and, as written, has few enforcement mechanisms to ensure that adequate care standards and oversight are provided.

Retirement homes, even under the new regulatory legislation, should not be seen by the government as alternatives to long-term-care facilities and chronic care hospitals, which are publicly funded and, as a result, subject to higher standards and governing legislation under the oversight of the Ministry of Health and Long-Term Care.

CUPE is concerned about the absence of a comprehensive strategy for a continuum of elder care when a

growing number of Ontarians have health conditions requiring care through admission to long-term-care homes.

Rabbi Shalom Schachter: Government data show that there has been a steady increase in the acuity of residents who are admitted to long-term-care facilities. In the 2007 fall report, the average acuity of incoming residents into long-term-care homes had a CMM of 95.56. The following year, the average acuity was 98.28. So the residents who have the highest levels of acuity are going into long-term-care homes, but the residents who would have been admitted two or three years ago have to find a place in retirement homes.

Ms. Candace Rennick: Because of inadequate numbers of beds and long waiting lists, a growing proportion of this population is settling for care through admission to for-profit retirement homes.

Rabbi Shalom Schachter: Hospitals are complaining that they can't admit patients onto the floor because beds are occupied by people who only have chronic care needs, not acute care needs. These residents are finding themselves discharged to retirement homes because they can't find places in nursing homes.

Ms. Candace Rennick: CUPE believes that residents get the best care and the best value for money from publicly delivered health care services in the province.

Rabbi Shalom Schachter: The government's own data show that for-profits, as of the last report—December 2007—only got 2.5 hours of care, which was lower than the average, yet nursing homes have residents with the highest acuity. In the last report that was given, their acuity was a full 1% higher than the average in the province.

Ms. Candace Rennick: So until the long-term-care sector is sufficiently expanded, there need to be clear limits on the type of care that will be provided in retirement homes, transparency of the data on the number of residents in retirement homes who qualify for admission to long-term-care homes, and, when any of these residents are admitted from hospitals, the names of the hospitals involved.

Rabbi Shalom Schachter: That data should be publicly available, and we shouldn't have to file freedom-of-information requests in order to get that kind of data.

1450

Ms. Candace Rennick: CUPE is concerned about the inadequate accountability mechanisms being put in place. A ministry with administrative resources should bear the responsibility for this agency, with all due respect, not a seniors' secretariat.

Rabbi Shalom Schachter: Again, you've heard from the earlier presenters that one of the additional difficulties that may come without a ministry being directly in charge is that the freedom-of-information legislation may not apply, thereby denying access to data and transparency.

Ms. Candace Rennick: The government should appoint all members of the authority, and must ensure that the authority is representative of all interests, includ-

ing residents, residents' councils, front-line staff and their unions.

Rabbi Shalom Schachter: There is already a concern about conflict of interest within the nursing homes in the ministry, and that was part of the reason why the Ombudsman launched their investigation into the adequacy of regulation of long-term-care homes by the ministry. We find it very disappointing that that report hasn't been released, but that concern about conflict of interest is certainly heightened with the way the authority is going to be construed.

Ms. Candace Rennick: There needs to be a balance of rights and responsibilities between licensees and other stakeholders. Rights to be part of licensing and enforcement processes should apply equally to residents and their advocates and front-line workers and unions that are available to licensees. As well, the refusal to take effective action against a licensee should trigger the same review rights as is triggered by determination to take such action.

Rabbi Shalom Schachter: We recommend to you the Ministry of Labour occupational health and safety model. Under subsection 54(3), inspectors coming into workplaces have to consult with representatives of workers, and under subsection 61(5), workers have full rights of appeal against inadequate orders that are issued by the inspector.

Ms. Candace Rennick: There need to be clear standards for care contracted for and delivered in such homes. This is a fundamental defect in the Long-Term Care Homes Act, and has yet to be corrected. That flaw should not be repeated here.

Rabbi Shalom Schachter: Going to how long-term-care homes are dealt with, the increase in care hasn't even kept up with the increase in resident acuity. For the period from January 2004, shortly after this government was elected for the first time, to December 2007, which is the date of the last data, acuity has gone up 8.4%, staffing has only gone up 7.7%, and yet funding has gone up 26.4%.

Ms. Candace Rennick: The most crucial threat to the well-being of residents is systemic neglect because of insufficient care. The legislation depends upon front-line staff reporting cases of abuse and neglect. The bill recognizes that in order to give such workers the courage to make reports, whistle-blower protection is necessary. The wording of this protection is useless. The bill must extend the scope of reporting that is protected—and the licensees from retaliating against whistle-blowers unless they first establish to a labour tribunal that the employee engaged in misconduct completely unconnected to the whistle-blowing. In the long-term-care sector, we have people who have reported cases of abuse and inappropriate levels of care to the media in that community, and those people have been suspended without pay. While, granted, the union was successful in getting these individual workers their days of wage back, the damage had already been done, and people are fearful of speaking out.

Rabbi Shalom Schachter: Are there any questions?

The Chair (Mr. Shafiq Qaadri): Thank you very much. We have about 40 seconds or so per side, beginning with the government. Mr. Dhillon.

Mr. Vic Dhillon: This bill is essentially about consumer protections and how seniors can purchase services in retirement homes, just as they would in their own homes. Don't you think that in that light, it's important to make sure that the seniors get their services in a safer environment, in a safer way?

Rabbi Shalom Schachter: Absolutely, but this bill doesn't do it. We support the submissions that were made by the Advocacy Centre for the Elderly criticizing that this bill does not protect consumers.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. Martiniuk.

Mr. Gerry Martiniuk: We know that the number of seniors will double in the next decade. Seventy percent of them may not have pensions. If we do not build some more long-term-care facilities, have you any idea what we'll do with those seniors?

Rabbi Shalom Schachter: Absolutely, there needs to be more money invested in long-term-care homes, but there should also be more money invested in home care so that people have the option of staying in their homes. They shouldn't be arbitrarily restricted as to how much care they can get, and the terms and conditions of employment for home care need to be improved so that people will want to work in home care.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: One of my biggest concerns is, once again, the fox guarding the henhouse. I'm not overly impressed with the retirement homes authority. What's your opinion on that?

Rabbi Shalom Schachter: Again, we support the submissions of the earlier speakers. In our submissions we say that, first of all, it has to come under a ministry, that all of the members of the authority need to be appointed by cabinet, that they should have fixed terms and that there needs to be broad representation so that not only people from the industry get appointed but also consumer advocates, residents, residents' councils representatives and worker representatives.

Mr. Paul Miller: So you would encourage all aspects of our society to be involved in the care of our elderly, including unions, which is a very good thing.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Ms. Rennick and Mr. Schachter, for your deputation on behalf of CUPE.

ONTARIO HEALTH COALITION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Mehra of the Ontario Health Coalition, and colleagues.

Welcome. You've seen the protocol. You'll have 10 minutes in which to make your presentation.

Interjection.

We'll have that distributed for you. Just leave that there. I invite you to please begin now.

Ms. Natalie Mehra: I'm here with my colleague, Aisha Brown. Thank you for this opportunity. We too, along with the others who have presented before us, applaud the government for taking on the job of regulating retirement homes. It has been a long time coming and I think it's an important endeavour. However, we also have quite serious reservations about the way that this particular bill is drafted, so I'll just run through them quickly.

It's crucial to us that retirement homes not be allowed to become a second tier of lesser-regulated long-term-care facilities. We are already seeing a very dangerous trend towards moving ALC patients out of hospitals into retirement homes. This movement has contributed to the deaths of patients. It engenders poor health outcomes and it is extremely serious as a policy issue. In the words of the Nineteenth Annual Report of the Geriatric and Long-Term-Care Review Committee to the Chief Coroner for the Province of Ontario, "The circumstances surrounding" the woman's death that they were looking into "should alert health care professionals that, despite pressures to move the frail elderly out of hospitals to other settings such as private care homes to await placement in a long-term-care home, it is important to remember that these elderly clients are awaiting long-term-care home placement precisely because their care needs are so heavy that they are difficult, if not impossible, to provide in a community, private care setting."

In that case, an elderly 92-year-old woman was moved from an Ottawa hospital into a retirement home, where they were not able to provide for her care. Her daughter didn't believe that the home would be able to provide for her care and documented carefully the shortfalls in her care. Ultimately, she was readmitted to hospital, really at death's door from dehydration, which is essentially starvation for a person. It's a horrible situation to be put into.

The situation is this: Everything about the regulatory regime in this bill is less than long-term-care homes' requirements. There are no provisions for adequate staffing, including directors of care, physicians, medical leadership positions, access to health care professionals, or nurses and personal support workers, or the programs and services to meet the assessed needs of residents, or the proper assessment processes. There's no facility design manual to ensure that the built environment meets the care needs and is safe and appropriate.

Because retirement homes have many fewer legal requirements and because they pay their staff less, they're much cheaper to operate. The potential for chain owners to close down their more expensive long-term-care beds in favour of operating cheaper retirement home beds is quite significant if retirement homes are allowed to become this sort of dumping ground with less regulation for the long-term-care industry. I think that that is something that should be looked at.

The consequences of allowing this sort of continual cascading downloading of those patients—not only is it

morally wrong, not only is it not in the public interest and bad for seniors, but we believe it will also create a worsening access-to-long-term-care-beds problem down the road.

We think that the way to deal with this is that the legislation must be amended to put firm caps on the types of care that the homes can provide. This shouldn't be left to regulation; it should be right in the legislation. We think it's crucial that the core questions of the legislation—where do you cast the net? How do you define retirement homes?—should be solved within the legislation itself and not just subject to change down the road in the way that a regulation would be subject to change. That is our primary recommendation for amendment.

1500

The legislation should also be amended to make it clear which ministry has carriage of the legislation. To further clarify that these ought not to be de facto long-term-care homes or, in the worst-case scenario, de facto private, for-profit chronic care hospitals—this should not be the Ministry of Health. It should be a ministry that has the capacity and resources to deal with housing, to inspect and all those things—something like municipal affairs and housing.

In terms of the governance, like some of the other presenters today, we believe that there's no precedent in any legislation that we could find for a governance structure covering housing that looks like the one that's set out in this legislation. The other acts that we could find covering group homes—the Residential Tenancies Act—one is under health and long-term care, one is under municipal affairs and housing, but there were none that have a registrar—what appears to be a self-regulating college-like structure.

We don't think that this is the best approach. Actually, we think that this is a serious problem. Again, it should be clearly under a ministry that has the capacity and experience to deal with housing issues and with some clearer roles of the ministry.

If there is to be a board—again, like all the other presentations that I've heard so far today—we don't support the notion of a board that is dominated by the industry itself. This is not like a college. It's not like independent health professionals who are private entrepreneurs. This is an industry that's dominated by large, multinational chains that are sophisticated and have an approach to lobbying and an approach to profit-seeking that are completely not even in the same ballpark as individual health professionals. So we don't think that that governance structure is appropriate.

In addition, we believe that the parts of the legislation regarding access to information are inadequate. There's no reason that the public should be denied access to information for annual reports up to six months. If the minister gets them in three, the public should get them in three. The reports of the risk officer shouldn't be delayed by up to a year; they should get them right away. We think that that would be more in keeping with the public interest.

Similar to ACE, the Advocacy Centre for the Elderly, we had some very serious concerns about the sections regarding restraints. It seems to us that it is the responsibility of government to err on the side of not having people restrained. In that case, the common law duty to restrain only in instances of immediate risk of self-harm or harm to others should be the only one that applies. These facilities should not be foreseen as facilities in which people can be restrained for a long time or locked in for a long time. They're not designed for that, they're not staffed for that, there are no programs for that and there are no protections for that. Moreover, if any longer-term restraint is considered—and we strongly oppose that—certainly a higher authority should be called upon before anybody can be admitted to those facilities, and people should have immediate access to rights officers—not at their request, not if they disagree; immediate access to rights officers. That's it. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you. About 30 seconds or so, beginning with Mr. Martiniuk.

Mr. Gerry Martiniuk: Would you agree with the appointment of a ministry of seniors and long-term care?

Ms. Natalie Mehra: Separate from the Ministry of Health?

Mr. Gerry Martiniuk: Yes.

Ms. Natalie Mehra: I would have to consult on that. We don't have a position on that.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: From your presentation, I'm getting the impression that regulations governing care for retirement homes, hospices, long-term care should be consistent and universal. That would make it a lot simpler. Also, if these regulations were consistent and equal, do you think that this would improve the situation, because this bill certainly does not address consistency for all situations?

Ms. Natalie Mehra: I think what we're trying to get at is that there should actually be a much clearer—that the muddying of waters between long-term-care homes and retirement homes should actually—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon.

Mr. Vic Dhillon: I just want to make it clear that in this act, restraints have been prohibited. The only condition under which restraints can be used is if there's consent from the person himself or herself, or their appointed person. Do you think that that would address your concerns with respect to restraints?

Ms. Natalie Mehra: Respectfully, we've gone through the bill in detail, and the exceptions to the prohibition on restraints are woefully lacking. In fact, there should be no circumstances in which residents in retirement homes are subject to long-term restraints, period. Only the common law duties should apply here.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thanks to you, Ms. Mehra and Ms. Brown, on behalf of the Ontario Health Coalition.

CHARTWELL SENIORS HOUSING REIT

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. Karen Sullivan and colleagues on behalf of Chartwell Seniors Housing REIT. I guess that's a retirement—I'll let you define it. I'll invite you to please begin.

Ms. Karen Sullivan: Good afternoon. My name is Karen Sullivan and I'm the executive vice-president, People, at Chartwell Seniors Housing REIT. That's a real estate investment trust which owns and operates 77 retirement homes in Ontario, from Windsor to Cornwall and from Niagara Falls to Thunder Bay, where 7,000 people live and 3,200 people work. With me is Angela Grottoli, our associate vice-president of operations. Chartwell also owns and operates 50 retirement homes in BC, Alberta, Saskatchewan, Quebec and Newfoundland, and another 50 in the United States.

In addition, Chartwell has 28 licensed, government-funded long-term-care homes in Ontario, which provide care and service to 3,600 frail, elderly people. These two sectors, as you can see today, are often discussed together because the clientele is very similar in age; however, I would add, very different in terms of their health and frailty. Also, because there will be comparisons made between this legislation and the LTC Homes Act, I would be remiss if I did not mention that I was formerly the executive director of the Ontario Long-Term Care Association. I'm also currently an elected member of ORCA, the Ontario Retirement Communities Association.

ORCA and its members have been advocating for over a decade for consumer protection legislation for the retirement home sector in Ontario. In fact, ORCA was at the forefront of this movement with the introduction of the ORCA standards for accreditation, which are mandatory for all of our members.

We commend the government for making this move and feel that, for the most part, this bill effectively captures the legislative framework that will protect consumers now and in the future. Specifically, we're very supportive of the residents' bill of rights, the formation of residents' councils and most of the care and safety standards set out in Bill 21. There are, however, some areas of the draft legislation that require your serious consideration for change prior to final passage of the bill.

First, the definition of "staff" in relation to a retirement home is much too broad in its current drafting by including not only employees but also every person who works or provides services at the home, pursuant to contract or agreement with the licensee or between the licensee and an employment agency or third party. The issue arises when the requirements related to hiring, screening, skills and qualifications, and training are applied to this very broad definition.

As you can imagine, retirement homes contract with a variety of people who range from physiotherapists to landscapers, painters, snow removers etc. We do not believe that it was the government's intention to have all of these people meet the same requirements. By narrow-

ing the definition of “staff” in legislation to include employees and contracted care staff, and adding a separate definition for other contract staff, we can work together with the government to develop appropriate requirements for these two very different groups of people in the regulations.

In section 65 of the bill, licensees are responsible for ensuring that staff have the proper skills and qualifications to perform their duties. Again, we will need to work closely with government to develop the regulations to support this section in order to ensure that this does not lead to increased costs that will make retirement home living inaccessible for Ontarians who are currently able to afford and live in our homes, displace current employees or cause labour relations issues for the sector.

Also, in clause 90(3)(b), which allows the registrar to serve an order on the licensee to ensure that the staff at the retirement home obtain additional education or training, there must be a limitation that this applies only to training and education required by the act and regulations.

In addition, in the bill of rights, a resident has been given the right to have his or her choice of care services provided by staff who are suitably qualified and trained to provide the services. In the long-term-care sector, government provides standardized funding to all homes and it can expect in return standardized care services for residents. Retirement homes are fully private-pay, and choice of care services are dependent on what the home offers and what the resident purchases. We recommend that the language be amended to reflect this reality.

1510

If you actually visited a Chartwell long-term-care home and talked to our residents and then visited one of our retirement homes and did the same, you’d be struck by the significant differences in terms of both the physical frailty and cognitive abilities of these residents. People who choose to live in retirement homes are significantly more independent, active, mobile and competent than people living in long-term-care homes.

The section of the bill that fails to address these fundamental differences is section 62, which imposes a plan of care for all retirement residents and very significant documentation requirements related to the provision of the care and the outcomes of the effectiveness of the plan of care.

There are several reasons why this long-term-care-oriented approach is unworkable in retirement homes. First is the issue of resident choice. I can think of many residents in our homes who would not wish to have a plan of care and do not want the additional costs that will be passed on to them by having staff regularly update progress notes related to that plan of care. In addition, unlike in a government-funded LTC home, a plan of care is not simply a function of a resident’s needs; it is clearly affected by what the resident has purchased in terms of care services. I can foresee that this type of approach would lead to well-intentioned inspectors insisting that care services be added to the plan of care without

considering the cost of those services, whether they are included in the residents’ fees or whether the resident even wants the services.

That being said, we also accept that there are likely some instances where a plan of care for residents who have purchased care services such as medication administration, assistance with activities of daily living etc. would be required, along with some form of ongoing documentation. In fact, this is the approach that is currently used in the ORCA standards. Rather than taking a blanket approach, we recommend that section 62 set out that a plan of care and documentation be required as per the regulations. We can then work with government to determine in which instances this would be necessary and truly understand the level of documentation that would be appropriate.

In subsection 75.1(1), there is a duty imposed on any person to report to the registrar if they have reasonable grounds to suspect that “improper or incompetent treatment of care of a resident that resulted in harm or risk of harm to the resident” has occurred or even may occur. Then, in subsection 75(5), “the registrar shall ensure that an inspector visits the retirement home immediately” if they receive such a report. The same language is also used in the complaints section.

Although this may seem reasonable, the term “improper” is extremely subjective, and the duty to inspect based on this subjectivity is absolute. For example, giving a mild diabetic a cookie: Is that improper care? To mitigate this, we would suggest replacing “improper and incompetent” with “negligent and incompetent” and “shall ensure that an inspector visits” with “may have the inspector visit” in both sections.

In section 87, the registrar has an obligation to notify the complainant in writing of any actions and any decisions that are made. The licensee, on the other hand, is not provided with the same notification. It would be extremely beneficial in terms of our continuous quality improvement and understanding of our residents’ needs if we were afforded the same notification rights as complainants in section 87. I just want to say that in no way are we looking to find out who provided the information or the complaint; we just want to understand the nature of the complaint, to get better.

In part III of the bill on licensing retirement homes, section 39 provides the registrar with the ability to impose conditions that he or she considers appropriate. It’s essential that these conditions be limited to the requirements of the legislation and regulations. This will avoid the possibility that conditions related to the physical structure of the retirement home, the furniture and equipment or the esthetics become licensing conditions when there are no requirements related to these in the law.

There are several places throughout the proposed legislation that provide reasonable time frames. I won’t go into those specifically, but then there are other parts where reasonable time frames do not exist. They’re listed there. We would ask that those be added.

We understand that it is the government's intention to set reasonable fees. However, we caution that as the authority matures, there is a significant risk that these will increase and that the additional burden of these costs could make retirement living unaffordable to some people who access it now. We ask that increases to fees be approved by the minister prior to implementation as a check and balance.

Overall, though, I'd like to reiterate our support for this piece of legislation and its intent. There are certainly some changes that are required to make it even more effective in the longer term, and that is what I have concentrated on in my 10 short minutes.

With this type of legislation, the other key element is, of course, the regulations, and we very much look forward to working with the government to develop these over the coming months, and to also discuss the authority's interim board of directors and the competencies required of the permanent board of directors.

Thank you for your time and for your consideration of these amendments.

The Chair (Mr. Shafiq Qaadri): Thank you. Twenty seconds: Mr. Miller.

Mr. Paul Miller: So you represent a for-profit organization?

Ms. Karen Sullivan: Yes, we do.

Mr. Paul Miller: I'm very concerned about your concern that qualification and training lead to increase costs. These would be costs for your homes to train your personnel. You seem to be against that—

Ms. Karen Sullivan: They would be, actually, costs for our residents.

Mr. Paul Miller: No, let me finish. You're asking to displace current employees—you think that's going to happen. Labour relations could suffer. I'm not sure that a lot of your places are unionized, and—

The Chair (Mr. Shafiq Qaadri): I need to intervene, Mr. Miller. Mr. Dhillon?

Mr. Vic Dhillon: Thank you, Chair. I have no questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Ms. Jones.

Ms. Sylvia Jones: You mentioned at the end of your presentation that many of the details will be left to regulation. Are there specific areas where you would like to see the regulations actually in legislation so that we can debate and discuss them in a public forum?

Ms. Karen Sullivan: The plan of care, I think, is an important part so that we're being clear where we need a plan of care—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there. Thank you, Ms. Jones, and thank you, Ms. Sullivan and Ms. Grottoli, for your deputation on behalf of the Chartwell Seniors Housing.

I should also just mention that the committee and Chair, as well as our clerk, are available in terms of sending further written materials for follow-up should people like to add to their answers and so on.

CARP

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. Eng, vice-president of advocacy at CARP, the Canadian association of retired persons. Welcome, Ms. Eng, and please begin.

Ms. Susan Eng: Thank you very much. CARP has 300,000 members across the country, of whom 200,000 live here in Ontario. Our focus has always been on improving the quality of life for all of us as we age.

Our focus here today is on the consumer protection aspects of the bill. We are entirely supportive of the need for regulation and commend the province for taking on the responsibility of regulating the sector.

As has been noted, older Canadians are representing an increasingly larger proportion of the Canadian population; 39% of Canadian seniors live here in Ontario. By 2028, that number is expected to double.

However, people are also living longer and healthier lives. Although people will need to have some kind of intervention as they age, most prefer to live in their own homes. Contrary to popular belief, in fact, only a small proportion of Canadian seniors live in institutional settings, some 7%. I think there is an understandable preference for people to remain in their own homes. Despite a lot of focus on the issue of the home care sector, especially starting with the Romanow health accords, which indicated that perhaps home care should be the next essential service, nonetheless there still remains a very large gap. Consequently, there has been growth in the retirement home sector in order to try to service this gap.

I think one of the issues that we concern ourselves the most with is the issue of the amount of confusion and anxiety in this sector. Understandably, as people face the reality that they perhaps cannot live in their own homes and want to make a choice as to getting into a collective environment, some are looking at long-term-care homes, and others want to look at some kind of step in between. It is here that it becomes extremely important to make it perfectly clear what is happening here.

Retirement homes have to be understood as tenancies. The lists of care services that are being provided for pay are important, and they become absolutely necessary. It is that area that requires government regulation, and we are very pleased to see the level of regulation that is proposed here. However, that also reminds us to keep separate those homes that provide what might be considered heavy care or care that is tantamount to what you might find in a long-term-care setting, because that indeed is what's happening here. There is inadequate access to long-term-care facilities. Therefore, people are looking to alternatives, and this might be it. If this is it, then the kind of regulation that already exists in the legislation here in Ontario should be applied to those facilities that provide that kind of care. That is, in large part, what we're talking about here. When we talk about the elements of accountability, regulation and monitoring, that has to reference the heavy-care area.

There are many homes in Ontario that have no intention of ever providing such care services; they are

intended only to provide an age-friendly living environment, nothing more than a tenancy with a few privileges. Where our concern is concentrated is in those homes where they are purporting to provide the kind of supervision and medical interventions that would attend people who need up to but not necessarily including long-term care.

Our concern therefore would hope to find in the legislative scheme something that replicates the kind of governance that you already have for nursing homes, some of the things that we identified as missing in this bill that can be strengthened. It does not require any kind of wholesale chucking out of the legislation, but rather some fine-tuning and strengthening.

For example, taking my last point first, in the nursing home environment, you do not get a licence until you've had your certification, whereas in Bill 21 you suggest that there is temporary licensing until the registrar gets around to de-licensing you. I think that would be the wrong order of effort, that you can simply reverse that.

1520

Secondly, in order to adequately concentrate a regulation on where it's most needed, there should be a graduated licensing system. The legislative scheme currently speaks to the idea that there could be different classes of licences. I think there should be different classes of licences so that you can concentrate the effort where it's needed and relax where you don't need it. The legislative scheme that's currently before us suffers from trying to do both at the same time and consequently reduces the level of regulation that might be necessary for heavy-care situations and puts perhaps too onerous a burden on those facilities that will not provide that kind of thing.

This is also an opportunity to look at the accountability and oversight functions. I would agree with some of the previous speakers that the authority needs to be much more representative of the potential consumers or residents whose rights are the most at risk in a heavy-care situation. So the opportunity to involve stakeholders who represent those interests should be mandatory rather than permissive.

Similarly, on the issue of complaints, remember that if we're worried about the heavy-care situation, we're worried about people who have the least ability to stand up for their own rights. Therefore, the legislative scheme should best protect those circumstances. Rather than have complaints self-regulated, self-assessed and then ultimately dealt with by the complaints review officer—which, after all, is still inside the industry—it is important to have a third party auditing or monitoring the function. How you go about doing that: You have other examples in other legislation.

Finally, when it comes down to the actual licensing conditions that you might review, it's important to look after a number of issues that have been raised before, including safety standards such as sprinklers, and including making sure that in the area of restraint, for example—nursing home legislation already deals with

that. For some reason, Bill 21 expands the category of people who can order a restraint. We think that would be inappropriate where you have heavy-care situations.

So those, members of the committee, are my general comments in relation to the kinds of things that need to be changed in Bill 21, but otherwise we are fully supportive of the importance of regulation in this sector. I think it's a bold move and an important move.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Eng. A minute per side. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. How do you see this bill as being an effective tool for regulating care and services in retirement homes?

Ms. Susan Eng: Well, it makes a very important move to regulate this sector at all. That, in and of itself, is a major improvement on the status quo. What we're pointing out is that in trying to cover both extremes of the type of care that is available in these private non-profit and for-profit homes, you dilute the regulation you need for the heavy-care situations and you impose too heavy a burden on the lighter-care areas.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk?

Mr. Gerry Martiniuk: Institutional setting: Would that include seniors' apartments with a central kitchen? How do you define that?

Ms. Susan Eng: No. What we mean by institutional care is where the individual has a high level of medical or other supervision and intervention. So it wouldn't be somebody who is able to—

Mr. Gerry Martiniuk: But it would include retirement homes as defined by this act?

Ms. Susan Eng: I'm sorry; I don't understand your question.

Mr. Gerry Martiniuk: Would it include retirement homes as defined by this legislation?

Ms. Susan Eng: No. The institutional care that was referenced by the law commission is nursing homes.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: Yes, I was a little surprised with your comment. Don't you think that the reduction of service and different levels of licensing which you were recommending would confuse and overload the regulatory body? We have confusion now. I think bigger is better in this situation. I hope you're not advocating that there should be different levels of licensing for different levels of service.

Ms. Susan Eng: I am in fact making that distinction, based upon the difference between those—for example, in the types of care that are listed as care services, you have everything from minimal intervention to those that require medical interventions. There are two different kinds of care that are provided there. I take your point that even the most minimal levels of intervention require some kind of training and certification. If you wanted me to get into detail with that, I would. The issue is that every time you're providing any of these formal care services, the person should be not only trained but

certified to provide those kinds of services. So where we are talking about heavy care situations, where there are significant hours of care—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Ms. Eng, for your deputation on behalf of CARP.

Before inviting our next presenter, I would just like to recognize on behalf of the committee and all present an officer of the Legislature, the honourable Barbara Hall, Ontario human rights commissioner.

DR. ALEXANDER FRANKLIN

The Chair (Mr. Shafiq Qaadri): I'd now invite Alexander Franklin, who comes to us in his capacity, I believe, as a private citizen. I know you know the drill very well, so please be seated, and I'll invite you to begin now.

Dr. Alexander Franklin: Mr. Chairman, members of the committee, some thoughts: A retirement home is difficult to define. It could apply to a hotel suite with full personal attention, including concierge and maid services, a swimming pool, sauna, exercise facilities, massage and an in-house medical centre with physician and nurse. Unlike municipal and charitable homes for the aged, the OHIP medical services in so-called retirement homes are billed as house calls unless the physician has a permanent office in the home. A more logical description would be "for-profit homes for the aged," for which legislation has existed for more than 30 years. In the UK, there's been a long history of private hotels—in fact, retirement homes which are able to choose their guests—for those who no longer wish to bother with running a household. An example is the BBC TV series *Waiting for God*.

Some suggestions:

(1) A prospective resident should be able to read in their first language details of the lease, especially the maximum nursing services available and whether oxygen and urinary catheters are allowed.

(2) Required power of attorney given to an independent person without any financial interest in the home or resident—important in cases of illness or early dementia. There is a danger of a relative wishing to maximize inheritance by transferring to a less expensive home for the aged with fewer personal services and amenities. Without a power of attorney, the state takes control by a court committee.

(3) A registered retirement home that employs a physician should select a geriatrician with at least four years of postgraduate training with a fellowship qualification and hospital connection.

(4) Staff employed by the retirement home should have police clearance.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Franklin. We have lots of times for questions, I guess about two and half minutes per side, beginning with Ms. Jones.

Ms. Sylvia Jones: Thank you. Your second point, required power of attorney, is quite a departure, as you can imagine, from the current power of attorney, which is something people have the option of doing as they go through this life. Why the requirement?

Dr. Alexander Franklin: For their protection.

Ms. Sylvia Jones: Well, we only have two and a half minutes; I'm not sure that we could sufficiently debate it for two and a half. But I'm not sure that that protects everyone in that situation.

Dr. Alexander Franklin: The whole idea is to protect the resident.

Ms. Sylvia Jones: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: In reference to that comment, how do you feel about the power of attorney being awarded to the owner of the home who provides the services? There's nothing in the bill that requires them to make contact with any distant relative that may have your betterment in their concern. So I'm saying, if you're doing a power of attorney, you might want to have a family member, because sometimes there has been some questionable conduct by some unscrupulous owners who have taken some of the finances and put them where they shouldn't be.

1530

Dr. Alexander Franklin: Agreed.

Mr. Paul Miller: So you're saying that this would be a situation where they'd have more protection for the individual person who may not have any living relatives who are available?

Dr. Alexander Franklin: Precisely.

Mr. Paul Miller: I don't think that's so bad.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Mr. Franklin. The proposed legislation would require retirement homes to comply with certain standards with respect to the range of services provided, such as feeding, bathing and—

Dr. Alexander Franklin: Sorry, can you—services?

Mr. Vic Dhillon: Yes. It would require certain standards for such services as assistance with feeding, bathing and continence care, and services provided by regulated health professionals. Do you not agree that such standards would represent a significant step forward in a currently unregulated sector?

Dr. Alexander Franklin: I don't think those services have anything to do with a retirement home. As I mentioned, it really becomes a home for the aged. It's a different level. All those services you mentioned, such as aid with feeding—unless it's a temporary illness, which may amount to anything—I think what you implied, Mr. Dhillon, was that this sort of care really is for homes for the aged.

Mr. Vic Dhillon: But do you not agree that having certain standards for this type of care is the right direction that we should be taking?

Dr. Alexander Franklin: No, the reason being that it's really not suitable. When one needs that sort of care, you really have to be in a home for the aged, and that has

legislation, as I mentioned, over many years. The question is going back to define what a retirement home is. That's going to be difficult.

Mr. Vic Dhillon: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thank you, Dr. Franklin, for your deputation in your personal capacity.

MR. DEV MUNDI

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward, Mr. Dev Mundi. Welcome, Mr. Mundi. You've seen the drill. I'd invite you to be seated. Please begin now.

Mr. Dev Mundi: Thank you very much, Mr. Chair. My name is Dev Mundi. Our family owns and operates several small homes across Ontario. My comments and observations are more related to the operational difficulties the small operators might encounter with this legislation.

As an example, if a resident has to move from one of our licensed homes, it requires, under section 44, that the licensee "has taken reasonable steps to find appropriate alternate accommodation for the resident." With all due respect for the intent of the legislation, we will take very good care of the residents when they are under our care. I think it would be really stretching the situation here for us, the small-time operators, to look for and find appropriate accommodations. I don't know what "appropriate" is for each resident. I wouldn't know what financial situation the resident might be in. Our recommendation is that we provide information as to alternative accommodation available in the community, rather than to find appropriate alternative accommodation.

Similarly, under the bill of rights—I'm glad the legislation has addressed the bill of rights for the residents. It's commendable, and I, in principle, support that notion. However, there's confusion and a lot of conflicts that I've come across.

As an example, a resident, under section 51, paragraph 4, has "the right to have his or her choice of care services provided by staff who are suitably qualified and trained to provide the services." I wonder whether we are placing the onus on the resident to screen the suitability and the qualification of the staff, and taking that onus away from the operator and the licensee. I don't know whether that's the intent of the legislation; I hope it is not. That would create confusion as to what residents' parameters are for assessing the suitability and qualification of the staff.

My bigger concern is with the care plan segment of this legislation. As an example, subparagraph ii of paragraph 5 of subsection 51(1) indicates that a resident has the right to "participate fully in the development, implementation, review and revision of his or her plan of care." And the following subparagraph, iii, indicates that a resident has the right to "give or refuse consent to any treatment, care or service." What if they refuse to give consent? How am I supposed to develop a care plan for that resident? I believe this section of the bill is like using

a hammer to kill a fly. I think it should be screened very carefully so that we don't put excessive, descriptive situations that leave very few options for the resident. I think we should leave options for the resident. If they refuse to have a care plan, that's their prerogative. I think there's a right to choose; we should respect that, rather than force residents to fully participate in the development, implementation, review and revision of the care.

Furthermore, smaller operators reviewing and re-assessing these plans will result in taking the service providers away from providing service to deal more with paperwork to do the care plans. We have been doing care plans in my business for over 22 years. There have been no problems, and I anticipate no problems if you provide the fundamentals of the care plan that the residents would require and leave the details to be worked out with the resident and the operator at the time of admission, with the assistance of the physician and the nurses on staff.

I have another problem with the legislation, which is the care from outside providers chosen by the resident. It has two problems, in my opinion. Number 1, it may create issues with the unions, since in many cases the collective agreement provisions provide against sourcing out. If this is interpreted as sourcing out services, we might have difficulties with those articles of the collective agreements. Number 2, the licensee would have very little, if any, control over the quality of the delivery of the service. So I suggest that some changes need to be made in that aspect as well. With that, I thank you for the opportunity to speak to you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Mundi. We have about a minute and a half per side. Mr. Miller.

Mr. Paul Miller: I just tried to close in on some of your main points. I agree with you that you shouldn't be burdened with finding another facility that's suitable for a person who may be leaving your care. I agree with you. However, you mentioned that regarding section 51, paragraph 4, suitability of staff to provide service, the owner could provide staff. I would think that the owner could give proper qualifications, and before the person comes to your home to live there, they'd be aware of the services provided and the ability of the employees that you have. In other words, if you don't do that, they may not qualify, and when the person gets stuck in a long-term situation, they can't get out because of various reasons, whether they're incapable or don't have proper representation. So I'm very concerned about that; I don't like that.

Regarding the care plan, you said that it should be up to the resident to choose that. In a lot of cases, the resident doesn't have the financial wherewithal to acquire the proper care. Therefore their choice would be limited, to say the best, and could be minimal at least. So I'm not quite sure I agree with that either.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon?

Mr. Vic Dhillon: I have no questions.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk?

Mr. Gerry Martiniuk: I'm interested: What do you do at present when someone is leaving your premises and has nowhere to go? Can you deliver them to the hospital and leave them on the doorstep?

Mr. Dev Mundi: No, we have systems in place whereby we will engage the existing community services such as CCACs, such as social workers in the area. Those are the agencies that will assess the suitability of the resident to go to the next level.

1540

Mr. Gerry Martiniuk: Okay. But you don't arrange that at the present time. You refer it to the community care access centre.

Mr. Dev Mundi: That's correct, sir.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Martiniuk, and thank you, Mr. Mundi, for your deputation.

ONTARIO SOCIETY (COALITION) OF SENIOR CITIZENS' ORGANIZATIONS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Jesion and Ms. Meade on behalf of the Ontario Society (Coalition) of Senior Citizens' Organizations. Welcome, and I'd invite you to please begin now.

Mr. Morris Jesion: Thank you for the opportunity to address you today. My name is Morris Jesion. On my left is Ethel Meade, a past co-chair of our organization. We're a large grassroots organization representing 150 or more seniors' groups across Ontario. We were pleased when the legislation was introduced. When we saw the details—I think there are a lot of comments that Ethel Meade, our past co-chair, will be addressing.

Ms. Ethel Meade: When OCSCO and other seniors' organizations first heard that this bill was to be introduced, we were delighted. At last, after such a long wait, something was going to be done about regulating retirement homes. That's why seniors, those who care about them and those who advocate on their behalf had such high hopes that the new bill would lead to the adoption of a system to protect those who now reside in retirement homes and those who may do so in the future. Now that Bill 21 has had second reading and there is this really tiny window for public input, we must unfortunately say that we are hugely disappointed.

That disappointment begins with the definition of the care service that the retirement homes to be regulated may offer. The first clause of the definition states that "care service" means "a prescribed health care service provided by a member of a college as defined in the Regulated Health Professions Act, 1991."

This early definition has the effect of making retirement homes indistinguishable, really, from long-term-care homes as defined in Bill 140—except for the fact that retirement homes are all privately owned, whereas the long-term-care homes are funded by the government.

In other words, it creates a two-tiered long-term-care system.

Up until now, retirement homes have been seen as intermediate between care at home and institutional care. In fact, as we pointed out in the 2007 consultations, prospective residents of retirement homes were persons who, because of age-related functional deficits, no longer felt safe living at home, especially if, as single, divorced or widowed persons, they were living alone and, equally important, their needs did not make them eligible for admission to a long-term-care home.

It is clear to us that this definition will meet with strong support and satisfaction from the large international operators of high-end retirement homes. Since fees are not to be regulated, they can continue offering the services of health care professionals for extra fees and can even charge the resident a higher extra fee than what they have to pay the professionals. Who could ask for anything more?

We are not overly concerned with the amount of money required to live in these high-end retirement homes. People who choose to live there have decided that it is worth the price for the amenities offered and they are financially able to do so.

We are concerned, however, with the number of such homes that have a long-term-care home on the same campus. They naturally see their own interests in doing everything to avoid transferring even very frail residents to the long-term-care home, where rates are regulated and profits are small. The real profits come from the retirement homes. Even the non-professional workers in these retirement homes are frustrated because they know that their skills are not adequate to provide the level of care actually needed by frail residents.

Our chief concern, however, remains the low end of the retirement home cost spectrum. We have referred to them in the past as "black market" homes. We have also pointed out that for persons of modest means who find that they cannot conduct the activities of daily living and the instrumental activities of daily living without assistance, their options may be limited because public supportive home care is not available or is inadequate; family and neighbours are unable or unwilling to fill the gap; and they are not so frail as to need or be eligible for admission to a long-term-care home.

Clearly, the needs of person in this category could be met by other means, such as supportive housing, supportive home care or subsidized Lifeline services. But, for far too many of them, none of these options are available. They must therefore look for the cheapest possible retirement home they can find.

Who operates the lower end of the retirement home price spectrum? Often they are empty nesters whose first aim is to increase their own retirement income. They may be kind and caring people who do their best to provide the best possible care or they may be selfish, money-hungry people who want, and may need, extra income, but want to acquire it at the lowest cost to themselves in money, energy and attentiveness.

These are enterprises which do not advertise their existence and succeed by word-of-mouth referrals. They can thus operate without anyone, especially governments at all levels, being aware of what they are doing.

This was the problem that Professor Lichtman was addressing when he advised the government of the day that operators of such homes should be considered landlords and their residents or prospective residents as tenants, thus guaranteeing them the protection of the Landlord and Tenant Act. This protects them from arbitrary or illegal evictions.

Around the same time, the Advocacy Centre for the Elderly pioneered, and the government accepted, a document known as the care home information package, CHIP, which the landlord was required to give to prospective residents. This document contains information useful to anyone contemplating a move into one of these homes. Its usefulness has been limited, however, because the landlord can fail to offer it and prospective tenants might not know of its existence or of their entitlement to see it.

This results, of course, from the failure of the then current and their successor governments to provide the continuous public education that would have made the CHIP a matter of common knowledge. This is only one of many such failures that often leaves citizens unaware of programs and procedures intended for their benefit.

Many of these lower-end homes are outside the regulatory authority. We propose that the number—oh, I've got the wrong page here.

We are disturbed by the absence of any definition of the minimum number of tenants required before a home is defined as falling under the jurisdiction of Bill 21. If the number is set too high, it will leave too many of the lower-end homes outside its regulatory authority. We propose that the number be three unrelated residents, with "unrelated" not precluding spouses seeking care together.

The authority Bill 21 proposes to establish to oversee and enforce the contemplated regulations we find totally unacceptable: first of all, because its board of directors will be appointed and self-perpetuating, but also because no attempt has been authorized or mandated to balance the interests to be represented on this board.

We have proposed in the past and we now propose again that the entity overseeing the enforcement of the provisions of the bill should be tripartite, with equal numbers of licensees or their representatives, consumers or their representatives and government representatives from the seniors' secretariat and the Ministry of Health.

1550

We turn now to matters under Bill 21 about which the Lieutenant Governor in Council may make regulations. The number alone is pretty stunning; there are 49 of them. What is alarming to us is that so many of them are of crucial importance to protecting residents and prospective residents. While we're glad that these factors have been recognized, there are grave disadvantages to leaving them to be the subject of regulations.

The Chair (Mr. Shafiq Qaadri): With apologies, Ms. Meade, I'll need to intervene there. We do have your written submission, which has been circulated to all members of the committee.

Ms. Ethel Meade: I only have about two more sentences.

The Chair (Mr. Shafiq Qaadri): Your allotted 10 minutes have now expired, and I respectfully invite you to please cede the podium to our next presenter. On behalf of the committee, thank you for coming today, Ms. Meade, and thank you once again, Mr. Jesion.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: Ms. Doris Grinspun of RNAO, the Registered Nurses' Association of Ontario. Welcome. Please begin.

Ms. Doris Grinspun: Good afternoon, everyone. My name is Doris Grinspun. I'm the executive director of the Registered Nurses' Association of Ontario. With me today is Sara Clemens, nurse policy adviser at RNAO.

RNAO is a professional association for registered nurses who practise in all roles across the province. We represent 30,000 nurses. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians.

We appreciate the opportunity to present this submission on Bill 21, An Act to regulate retirement homes, to the Standing Committee on Social Policy.

RNAO congratulates the minister responsible for seniors for tabling Bill 21 as a first step toward regulating retirement homes in Ontario, something that RNAO and other stakeholders have requested for a very long time. Bill 21 aims to set clear care and safety standards to be followed by Ontario's estimated 700 retirement homes. It also establishes a new regulatory authority to enforce those standards and protects the rights of retirement home residents.

We refer you to our detailed written submission for the recommendations that we believe will strengthen Bill 21, in particular: mandating training of retirement home staff in health protection and promotion, and disease prevention, including the uptake of best practice guidelines; requiring fire sprinklers in all retirement homes after a reasonable phase-in period; enhanced infection prevention and control; increasing accessibility of the patient's bill of rights in every retirement home; and employing the precautionary principle to make it clear that abuse and neglect must never have a place in retirement homes.

In the limited time we have, we would like to focus on two fundamental issues: (1) the need for a cap on the health services that can be provided by retirement homes, and (2) strengthening the public accountability and transparency of the newly created regulatory authority.

While generally supportive of legislation that protects the rights of vulnerable residents of retirement homes,

RNAO is profoundly concerned that regulation must not result in a slippery slope to two-tier health care for older persons in Ontario. This concern stems mainly from the vague and ambiguous definition of "retirement home."

Section 2 of the act defines "retirement home" as "a residential complex or the part of a residential complex ... that is occupied primarily by persons" over the age of 65 "where the operator of the home makes at least two care services available, directly or indirectly, to the residents."

However, the act does not limit the role of a retirement home, nor does it clearly set out what could constitute "at least two care services available, directly or indirectly, to the residents." There is nothing, therefore, that would appear to prevent a private for-profit retirement home from offering the same services that are provided by a long-term-care home, up to and including the care of complex and/or unstable residents.

Regulating retirement homes to provide these essential health care services sets the stage for private for-profit two-tier health care for older persons in this province. Although complex care needs in retirement homes would be serviced by publicly funded home care providers, only residents who could afford the higher cost of private retirement home accommodation, compared to long-term care, would be able to access these services. Modest accommodation in a retirement home costs each senior between \$50,000 and \$100,000 a year. This, as you know, is well beyond the means of the average older person not only in our province but all across Canada.

Further, allowing retirement homes to duplicate the health services of long-term-care homes will have the perverse effect of enticing for-profit long-term-care homes to reclassify as retirement homes. This way, operators will be able to avoid the stringent accountability measures governing long-term-care homes and increase their profitability.

From the all-important resident's perspective, private for-profit care is not interchangeable with publicly funded not-for-profit care. The evidence is overwhelming that the quality of care in for-profit institutions is lower, and all the research points in that direction. Canadian evidence from the long-term-care sector has found that staffing levels are higher in not-for-profit facilities than in for-profit facilities and health outcomes are better in not-for-profit facilities.

In the US, private contracting in the Medicare program for seniors through Medicare health maintenance organizations, or HMOs, provides a cautionary tale. A multi-billion-dollar subsidy has evolved where HMOs often cherry-pick the healthiest clients while refusing those with more complex care needs. For-profit firms carve out the most profitable niches, leaving the public sector responsible for the unprofitable patients and services and usually the poorest people.

RNAO states in the strongest possible terms that regulation of retirement homes in Bill 21 must not result in privately owned for-profit retirement homes offering two-tier health care to those who can afford to pay

privately for that care. It is essential that the definition of "retirement home" in Bill 21 be amended to incorporate a limit or cap on the services that can be provided that is appropriate to the level of regulation in the act and that does not result in de facto privatization of long-term care. Any cap should be clear that residents with moderate to complex health care needs and those with significant mental health needs would not receive care from a retirement home. Doing otherwise is irresponsible for this government.

Most importantly, publicly funded not-for-profit long-term care and community care must be available to all who require it. RNAO strongly urges the government to ensure adequate funding to support the Ministry of Health's aging-at-home strategy and the availability of age-appropriate care from home and community care, long-term care and hospital care within the public not-for-profit health care system. Home care services, including homemaking and professional services, should be expanded to support persons with chronic conditions and/or older persons so that they can continue to remain active and vibrant members of our communities.

RNAO also urgently recommends that work begin immediately on a much-needed comprehensive elder health strategy for Ontario. The lack of a comprehensive strategy contributes to emergency departments being backed up, millions of health care dollars being spent to care for those who occupy alternative level-of-care beds in hospitals, and more than 25,000 seniors currently waiting for a long-term-care bed in Ontario. The imperative for an elder health strategy with strong attention to building a robust home health care sector to respond to the needs of an aging population is more urgent than ever as baby boomers enter their senior years.

1600

The second issue we want to address before the committee is the composition of the newly created Retirement Homes Regulatory Authority and how public accountability and transparency are assured. Bill 21 establishes the Retirement Homes Regulatory Authority to issue licences to retirement homes, create a public registry that lists all retirement homes in the province, publicize inspection reports, conduct enforcement activities, and protect residents' rights.

At least five of the nine authority board members are elected by the board itself, with the remaining members appointed by cabinet, in what is presumably intended to be a self-regulated model patterned after self-regulated health professions such as nursing and others. The board members appointed by cabinet may be selected from licensees, consumers and representatives of business and government, and there is no requirement that seniors or other consumers, health professionals or other sector units be represented on the board. In fact, there is nothing in the act to prevent the self-electing regulatory authority from quickly becoming dominated by the retirement home industry, many members of which are large, for-profit corporations. Amendments are needed—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Grinspun. I need to intervene there. Thank you—and Ms.

Clemens—on behalf of the committee for your deputation on behalf of RNAO, as well as your written deputation.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward—and I think the committee always appreciates it when an officer of the Legislature comes forward—the honourable Barbara Hall, chief human rights commissioner for the province of Ontario, and colleague. Welcome—

Ms. Barbara Hall: Thank you, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): —not Mayor Hall but Barbara Hall. Please begin.

Ms. Barbara Hall: I'm pleased to be here today with Anya Kater, a senior policy person from the Ontario Human Rights Commission. Thank you very much for the opportunity to add today to the discussion on this important bill.

In our consultations and work at the commission on issues like age, housing, disability and mental health, we've often heard about the need to regulate retirement homes. Indeed, I think this is an issue that affects all of us, as Ontarians, as we struggle to deal with parents, grandparents, siblings, family members. I had a birthday yesterday. Even in terms of planning for ourselves and our future and trying to do it in a way that will allow us to age with dignity, we meet many challenges.

We commend the seniors' secretariat for working to put a system in place, for the very first time in Ontario, that can help remove the risk of substandard care or abuse and that can enhance the quality of life of vulnerable people living in retirement homes across the province.

The Ontario Human Rights Code was written to protect every person in Ontario, including the people who live in retirement homes. I'm here today to share some ideas on how this bill can be enhanced to make sure those envisioned human rights become lived rights.

Many have told us that low-income seniors are at a disadvantage because they have to take the housing that they can afford. We welcome the steps to set care and safety standards across a range of care homes so that lower income does not result in substandard care.

At the same time, we caution that fees charged by the proposed authority will likely be passed directly on to the residents, especially in for-profit retirement homes, and could adversely affect people with limited incomes. We've also heard concerns that some non-profit retirement homes may not have the same ability to directly pass on costs, which puts housing and service levels at risk. So fees must be carefully considered because they can adversely affect and lead to lack of access to housing and services for persons with low income, either by making the basic housing and services they need unaffordable or by decreasing the levels of services available.

The residents' bill of rights gives people a practical tool to protect their rights, have control over their own

affairs and have a voice to deal with those who run their housing and care.

Under the Human Rights Code, people also have the right to live in housing without discrimination based on grounds such as age, religion, ethnic origin or disability, just to name a few. The code requires that people who provide housing or services have a legal duty to accommodate based on these grounds, up to the point of undue hardship, in a way that respects dignity, individuality and that promotes inclusion and full participation.

We recommend changing the language in line 9 of the residents' bill of rights to clearly state that residents have the code rights as well to be free from discrimination or harassment and to be accommodated to the point of undue hardship. We recommend that the bill require that retirement homes put in place sound human rights policies, practices and training to identify how to meet the legal duty to accommodate, with special attention paid to accommodating people with mental health issues and dementia.

We know that some of the impetus for this bill arose from concerns about the use of restraints and confinement. We understand that the Ministry of Health promotes moving towards a restraint-free environment, and we encourage you to make sure this bill includes strong safeguards to reflect that commitment. The bill or regulations should include clear criteria for deciding when restraints may be needed and must also provide clear avenues for residents or their decision-makers to take when they object to the treatment they're receiving.

We will leave comments on some of the finer details of this section to groups that have more expertise than us, such as the Advocacy Centre for the Elderly or OANHSS.

Lastly, it's not clear whether this bill also covers supportive housing, which may provide similar services to older persons among other residents. We believe that supportive housing residents should have the same protections and quality standards that this bill is working towards.

As our population ages, the Ontario Human Rights Commission will continue to be active on issues affecting how we treat vulnerable and aging Ontarians. We welcome opportunities to work with you to build a system that makes aging a time of equity and dignity for all in our province.

The Chair (Mr. Shafiq Qaadri): Thank you, Commissioner Hall. A minute per side: Mr. Miller.

Mr. Paul Miller: I just wanted to thank you for coming today. Did you take any active role in consulting with the government on this? Did they approach you on this? Were there any meetings between your organization and them?

Ms. Barbara Hall: There were not.

Mr. Paul Miller: Well, that's interesting. I imagine that human rights would play a big factor in the decisions of the elderly.

Would you feel that through some of your initiatives and some of the contacts you've had in your organiza-

tion, you could have made a considerable submission that would have maybe changed some of the bill itself?

Ms. Barbara Hall: There are many different ways that we're involved. Often, it's in appearing before committees such as this, giving comments and preparing a written submission, as we will be doing. We're happy to have an opportunity to come forward today.

Mr. Paul Miller: I'm glad you did. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Ms. Hall, for your presentation. I don't have any questions.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Just to your last point where you talked about questioning whether the bill would include the supportive housing sector: It is my understanding that it does not capture supportive housing.

And happy birthday.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thank you, Commissioner Hall and Ms. Kater, for your deputation on behalf of the Ontario Human Rights Commission.

1610

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1 CANADA

The Chair (Mr. Shafiq Qaadri): I invite now our next presenter to please come forward: Mr. Van Beek on behalf of Service Employees International Union, Local 1. Welcome, Mr. Van Beek. I invite you to please be seated. Please begin now.

Mr. John Van Beek: Thank you, Mr. Chair. Thank you to the committee members for allowing us to express our concerns about Bill 21, the Retirement Homes Act. We represent approximately 3,000 retirement home workers across Ontario. The brief before you—I'm going to just jump around in it, if I may. Please take a close look at the amendments. It does spell out very specific amendments to the bill that we won't necessarily refer to in our remarks today, but do take them seriously, please.

SEIU has long advocated for a Retirement Homes Act for the province of Ontario, an act that would protect seniors living in such facilities and ensuring quality care delivered by a well-trained workforce and regulated standards enforced by the Ministry of Health and Long-Term Care.

We were invited about three years ago to initial discussions as to what this legislation should contain. In late August 2003, the minister responsible for seniors issued a press release indicating that legislation would be introduced immediately after the Legislature reconvened after the election. Nothing happened. The opposition asked questions on several occasions, asking when legislation would be introduced, and the government gave assurances that when the legislation would be introduced everyone would be very happy.

I can only say: We wish we had waited a lot longer. It appears that the purpose of this bill is merely to regulate

the relationship between the tenant and the retirement home operator. The bill needs a major rewrite.

The bill before us is largely a consumer protection bill. It spells out that care services between tenants and retirement home operators be contractually drafted. It says nothing about the quality of those services. Every other piece of legislation pertaining to seniors and the care they receive is structured and enforced under a government ministry. Why not this legislation?

Section 126 of the bill also amends the Long-Term Care Homes Act, and this will allow retirement homes to operate as long-term-care facilities without the regulations and standards that apply to long-term-care facilities. This bill will allow the government and hospitals to download alternative-level-of-care patients to retirement homes. Very quietly, the privatization of long-term care will continue to expand.

SEIU wants to make it clear that seniors living in retirement homes cannot be protected by a simple authority spelled out in the bill. Self-appointed regulators—home care operators—just will not work.

SEIU believes that the retirement homes must be licensed and regulated under the Ministry of Health and Long-Term Care. We believe that is the most natural ministry to oversee retirement homes since it's the ministry that also now is responsible for supportive housing and home care services. There isn't much difference in terms of a PSW offering services to a retirement home resident or whether that resident lives in their own home.

We strongly believe that retirement homes need to employ personal support workers that are regulated to protect seniors. We do need a regulatory body for personal support workers to set standards and qualifications for them. Retirement home owners and operators, again, as we say, cannot be their own police and decide what constitutes a complaint by a resident. They certainly cannot solely assess a resident's care needs and determine what constitutes "suitably qualified" staff.

Particularly problematic is subsection 51(6), the restraints section. This bill continues the relationship between the resident and the retirement home. If the resident really is deemed to be a tenant, then in no way, shape or form does any owner, operator, or an employee have the right to restrain a resident in their own domicile. Only qualified, independent medical personnel can decide whether a person needs to be constrained, and if the resident is assessed as requiring restraints they should be moved to a more appropriate facility, such as a nursing home.

The whistle-blowing protection, section 115, is weak and meaningless because an employee can only report to the registrar, a body that is controlled by owners and operators. An employee has no whistle-blowing protection other than through an appeal to the OLRB. Workers already have that right currently, so there's nothing in the bill that will make an employee risk their job to report abuse. It just isn't going to happen. I think, at the very least, this bill could have a 1-800 complaints number prominently displayed in the retirement home, to

a properly constituted investigative and inspection body under the Ministry of Health and Long-Term Care.

We also point out that there are no dietary standards included in this bill. There is no definition of what constitutes proper accommodation and/or furnishings, such as in the Long-Term Care Homes Act. Unless the government is planning to legislate other acts and codes, there's no requirement for sprinklers. We also point out—and it has nothing to do with this act, in essence, but we've been long harping about the fact that retirement home operators don't provide their employees with WSIB coverage. We think that in terms of addressing the government, it's high time that these operators had to operate under the WSIB act.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. A minute per side. Mr. Dhillon?

Mr. Vic Dhillon: Thank you for your presentation. This bill is essentially about consumer protection. With this, seniors can purchase services in retirement homes just as they can in their own homes. Wouldn't it be important to make this reality a possibility—to make retirement homes safer?

Mr. John Van Beek: It is always a concern for us to ensure the safety of residents and employees alike—let there be no question. This bill has to go further, in the sense that I think that operators almost have to be protected against themselves. I was in a retirement home last month in Ottawa where there was a major downsizing because residents had moved out. What do residents generally complain about? Dietary food services.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. Martiniuk? Thank you. To Mr. Miller.

Mr. Paul Miller: I've constantly had people approach me from personal care worker situations. A lot of them are afraid to come forward because they're afraid of being disciplined or discharged from their employer. The impression I get from them is they want to be accredited and they want to be licensed so they can be accountable to the residents they serve. However, they seem to meet with resistance from the for-profit homes because the homes do not want to cut into their profits to pay the employees or let them unionize. That would improve the qualifications of the workers. Would this be a fair observation?

Mr. John Van Beek: If they did unionize, they'd have a stronger voice to speak out for them, but I think we can certainly separate unionization, in terms of establishing specific standards for personal support workers in this province.

Mr. Paul Miller: So, obviously, it didn't touch on that—

Mr. John Van Beek: Absolutely not.

Mr. Paul Miller: —and the bill falls woefully short of protection for the residents. The government is constantly touting safety. I think it's a no-brainer to have sprinkler systems in homes. Just because they're built before 1990, they don't get one? I don't want to put a classification on residences, but—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Thanks to you, Mr. Van Beek, for your deputation on behalf of Service Employees International Union.

ONTARIO RETIREMENT COMMUNITIES ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters, Mr. White and Ms. Christie, to please come forward on behalf of the Ontario Retirement Communities Association. Welcome. I invite you to please be seated and to officially begin now.

Mr. Gord White: Good afternoon. My name is Gord White. I'm the CEO of the Ontario Retirement Communities Association. We're also known by our acronym, ORCA. With me is our current president. It's a voluntary position held by Millie Christie.

The Ontario Retirement Communities Association is a voluntary, non-profit, self-regulating association that sets standards and inspects and accredits almost 70% of the retirement-home beds in Ontario. Our members are operators who want to meet our on-site inspections, peer review and third party oversight.

1620

A couple of comments about this system: Every retirement home that wants to be a member of the Ontario Retirement Communities Association must first pass our on-site inspection in order to join. As members, they must be evaluated at least every second year. They must continue to pass to remain in the association. If they fail and they are unable to meet the standards, they are expelled from the association.

A couple of other comments based on the presentations we've heard today: We have a no-restraint policy in our association for all of our members with respect to retirement homes. I note that our standards are available online so anyone may view them. It's a voluntary system, as I mentioned earlier, so it's being met by for-profit and not-for-profit companies alike, and I think that's a very important distinction. Especially since it is a voluntary system, there is no requirement in Ontario to follow these standards. The homes do so of their own volition.

While ORCA has been successful in developing and implementing a self-regulatory system for retirement homes in Ontario, it can't mandate 100% participation. As the retirement home sector expands, ORCA believes it is essential to have a system in place to ensure the safety of all residents, not just those in ORCA-member homes. We have been advocating for legislation for retirement homes for more than 10 years. We commend the province for acting on this promise to bring regulation to this sector. We also thank all three parties for their support of this bill. We believe that we have unique experience in implementing this oversight process for this sector in Ontario and are more than willing to share our expertise with whatever system develops.

We have some recommendations based on our brief review of the legislation.

First is the meals in the definition of "care service." This is section 2(1)(i). We believe that in the definition of

“care service,” the provision of a meal, which is in clause (i), is too open and will encompass many residences that would not normally be considered retirement homes into the definition of a retirement home. As an example, a seniors’ apartment that perhaps has a restaurant and offers some light assistance with ambulation could be considered, using this definition, as a retirement home.

We believe that a meal should be defined as a structured program in which virtually all retirement home residents participate rather than something that is just optional. This will better distinguish between actual retirement homes and other types of seniors’ housing.

We heard a number of people comment on care plans. This is under section 62. We’ll comment as well. We find that the care plan section is too prescriptive and will change the relationship between the resident and the retirement home. Most residents are independent and have little or no assistance. Not all residents wish to have a care plan, and as competent adults, they have this right. Care plans should reflect what residents choose, not what health professionals prescribe. They may not wish that legislation now requires that they be assessed, regardless of their circumstances.

Finally, the level of detail in each care plan required for all retirement home residents would be an administrative challenge, certainly for ORCA members. It might be an impossibility for non-ORCA members. This level of detail and administrative requirement will increase staffing costs for residents and may end up lowering their care services. ORCA recommends that this section be reduced significantly in the legislation and that the majority of this detail be addressed in regulations, when we can have both operational and consumer perspectives involved in the development.

Our comment on the retirement home authority fees: Seniors privately pay 100% for their care and accommodation in retirement homes in this province. New requirements as a result of this legislation may increase the amount that seniors pay month to month for their care. One known cost will be the regular fees paid to the retirement home authority, which will be passed along to consumers. Consumers should be aware of these fees and be very familiar with the role of the retirement home authority. Annual fees set for retirement homes must be managed in a logical, rules-based construct in order to ensure that seniors are not overburdened with costs. ORCA recommends that setting an operating budget for the retirement home authority first and then setting the fees to support this structure makes sense.

It’s a fundamental right to choose in retirement homes. Threaded through this legislation should be the consumer’s right to choose rather than the government’s right to require. While this legislation largely reflects—and I think they’ve done a very good job here—a consumer choice philosophy, certain sections, especially regarding care plans, border on a much too prescriptive approach that is out of step with how consumers wish to choose their own care. Systems must be made to be flexible so that consumers can receive the services they

need and make changes as required without delay due to regulatory requirements.

The responsibility of retirement homes: The care home information package, also known as the CHIP, which is found in the Residential Tenancies Act, is an agreement between the retirement home and the resident detailing the contracted services to be delivered. The legislation should be cognizant that retirement homes are responsible for the delivery of services outlined in the CHIP and that residents are responsible for paying for these services received. Retirement homes should not be made responsible for services they do not deliver or which are outside of their control. As well, retirement homes should be responsible for informing residents of other services in the community, as was mentioned earlier, such as long-term care and CCACs, but should not be made responsible in legislation for securing these services on behalf of a resident.

Thank you for your time and consideration.

The Chair (Mr. Shafiq Qaadri): Thank you. About a minute per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I don’t have any specific—well, actually, I do. You mentioned that 70% of the retirement homes are regulated under your association.

Mr. Gord White: Seventy percent of retirement home beds.

Ms. Sylvia Jones: Okay. Thank you. Are you suggesting that that could be the requirement in order to qualify as a retirement home in Ontario?

Mr. Gord White: I’m not sure if I understand your question.

Ms. Sylvia Jones: I’m not sure I can do it in a minute. Okay. It’s all right.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: I’ve got a couple of questions for you. What percentage of your membership is for-profit chains or smaller operators that are for-profit? What percentage of your membership?

Mr. Gord White: I would say that about 95% are for-profit; about 5% are not. The greatest reason for that is that it’s hard for not-for-profits to get enough capital to build the building, and I think that’s a barrier. We’d love to see more not-for-profit companies involved. I think it would bring greater diversity and a healthier sector.

Mr. Paul Miller: I’d like to see that too.

My second question is, I don’t see anything mentioned here, but I’m sure ORCA supports mandatory sprinkler systems for all long-term-care facilities, retirement homes and nursing homes. Would that be a fair assumption on my part?

Mr. Gord White: Yes, we support mandatory sprinklers.

Mr. Paul Miller: That is a main thing I don’t see in here. I think it would have been good if you had it in here, because it’s becoming a real issue.

Mr. Gord White: There are lots of considerations with that issue, but that’s probably a fire code issue, maybe not one that—

Mr. Paul Miller: Well, groups as large as yours, it would be good to support it.

The Chair (Mr. Shafiq Qaadri): Monsieur Lalonde.

Mr. Jean-Marc Lalonde: Thank you very much for your presentation. I want to refer to section 3 of your document. Are you aware that at the present time, approximately 20% of those residing in retirement homes are paid by the government?

Mr. Gord White: I'm not sure of that situation.

Mr. Jean-Marc Lalonde: Yes. At the present time, if a person cannot afford, the government will pay, I think, \$46.91 per day.

Mr. Gord White: You're talking about domiciliary hostels, not necessarily—

Mr. Jean-Marc Lalonde: Well, that is a retirement home.

Mr. Gord White: Occasionally, retirement homes can have a few of their spaces allocated for dom hostels. That's more rare than common.

Mr. Jean-Marc Lalonde: Not in the rural sector.

Mr. Gord White: Okay.

Mr. Jean-Marc Lalonde: And—

The Chair (Mr. Shafiq Qaadri): Merci, monsieur Lalonde, pour vos questions, and thank you on behalf of the committee to you, Mr. White and Ms. Christie, for your deputation on behalf of the Ontario Retirement Communities Association.

1630

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Ms. Pridham and Mr. Janson, on behalf of OPSEU. Welcome, and please do introduce yourselves.

Ms. Nancy Pridham: Thank you. Good afternoon. My name is Nancy Pridham, and I'm the Toronto regional vice-president of the Ontario Public Service Employees Union. I'm a nurse. I work at the Centre for Addiction and Mental Health. To my right is Joan White. She's the chair of OPSEU's long-term-care division. Joan is a health care aide at the Allendale long-term-care facility in Milton.

OPSEU represents 130,000 members who provide vital services for Ontario communities, including many who work in retirement and nursing homes. We welcome the opportunity to address your committee with regard to Bill 21, An Act to regulate retirement homes.

We applaud the government for introducing an act specific to retirement homes. This act is very important because the current legislation, the Residential Tenancies Act, 2006, applies to both young adults living in a dormitory and the elderly living in a retirement home. There are clear distinctions in the living needs of these different groups.

Our overarching goal as front-line caregivers is to ensure that the elderly in our communities live with dignity and in facilities designed and designated to offer

them proper care and services depending on their individual needs.

OPSEU members working under the bill before you now are qualified, highly trained and experienced. They play a vital role in ensuring that these goals are achieved. Our members are the personal support workers, health care aides and support staff in various roles.

Let me get straight to the matter of improving Bill 21. OPSEU submits the following recommendations:

Definitions must be clear: What is the function of retirement homes and what services are they legally obligated to provide?

According to the transitional care program framework established by the Ministry of Health and Long-Term Care, beds in long-term-care homes, also known as nursing homes or retirement homes, "exist for a temporary period of time under the terms of a service agreement for interim beds for individuals who are on a wait-list for an LTC home and have been discharged from a public hospital." However, according to the definition of a retirement home in part I, section 2 of this act, the operator of the home must make "at least two care services available, directly or indirectly, to the residents."

If retirement homes are to act as interim nursing homes, then they must provide the full scope of services, along with the appropriate staff required in long-term-care homes. After all, we do not want a repeat of the fatal incident in 2008 where a 92-year-old woman from Ottawa died in a retirement home while waiting for a bed in a nursing home. Ottawa's chief coroner reported that the lower level of care offered at the retirement home contributed to the death of this individual.

If retirement homes are going to take alternate-level-of-care patients, then they must follow the regulations under the Long-Term Care Homes Act. Let me be clear that retirement homes should not replace nursing homes. Each has their function and place in the community.

Currently, the funding model of retirement homes involves private dollars and nursing homes are funded by the province. In an effort by the province of Ontario to save money, there should not be a shift towards more retirement homes. The elderly requiring higher levels of care, who traditionally reside in nursing homes, should be able to receive that care regardless of their financial capabilities. All elderly patients deserve to live with dignity.

If retirement homes continue to act as interim facilities before patients move to nursing homes, then we propose that the retirement home have a section of their facility dedicated to this function, and therefore follow the Long-Term Care Homes Act. Not having this provision would likely result in retirement homes taking on more of these nursing home patients while not having specific legislation that addresses these types of patients.

Although many privately operated retirement homes in Ontario, such as Amica, have accepted residents suffering from severe health problems, including cancer, Alzheimer's and dementia, the staffing levels are often

inadequate to provide the necessary care. Most private chains gamble with care levels to secure higher profits. This should be avoided to limit the risk of more avoidable fatalities amongst our elderly.

The concept of split retirement-nursing homes is already a reality in British Columbia. Perhaps researching their quality of care and staffing standards should be investigated to determine their feasibility for the elderly people of Ontario.

The Retirement Homes Act must clearly and appropriately address issues of plan of care, facility standards, staffing standards and retirement home regulation. These issues are significantly interrelated and must be considered in an integrated manner.

Plan of care: Retirement homes currently outsource many services that are not provided in-house. Some of these services, including assistance with feeding, bathing, continence care and ambulation, are very important and should be considered essential.

Without regulated minimum standards, different facilities will provide different services at different costs in different locations across Ontario. Such a lack of uniformity does not benefit the citizens of Ontario. It allows market forces to dictate the provision of vital services to the elderly. Without regulated minimum standards, we cannot be assured that all elderly people will have access to quality care in all retirement homes across Ontario, regardless of their financial circumstances.

Staffing standards: Staffing considerations must be addressed at both the collective and individual levels. The plan of care cannot be in flux because it forms the basis for staffing requirements. Minimum ratios of residents to workers should be in place to uphold quality care.

Individual professional standards are simply vital. Not all workers are qualified to perform the same tasks. The issue speaks directly to resident safety and facility responsibility. For example, some retirement homes allow personal support workers to provide medication to residents and to check residents' sugar levels. Although current regulations allow a registered nurse to delegate a controlled act to an unregulated person under certain circumstances, the real issue is not being discussed. More specifically, do residents and their families know that in a given retirement home, the delegation of a controlled act is common policy, while in another home in Ontario the policy might be different? Is a given retirement home charging a premium for not delegating controlled acts? Similarly, is a given home taking a short cut and amplifying profits by implementing policies that maximize task delegation to those workers earning less money? Fundamentally, the question speaks to value: What is the resident buying, and is he or she aware of their options? In short, market forces must not be allowed to taint the care of the vulnerable.

Retirement home regulation: The Ministry of Community and Social Services should be the regulatory body of retirement homes, not the Ministry of Health and

Long-Term Care. The Ministry of Community and Social Services already has the framework in place to properly regulate retirement homes. We want to avoid second-tiered nursing homes. It is our belief that patients requiring the services of a nursing home should follow the Long-Term Care Homes Act whether they reside in a nursing home or in a retirement home.

Conclusions: The transition from independent living to increased dependency and care is simply part of the normal aging process. As we know from personal experience with our own families, the spectrum of circumstances is wide, and changes often occur quickly. The best way to meet these challenges is through a strategy that legally integrates and outlines the roles and responsibilities of all facilities and its employees.

In Ontario, we pride ourselves on the success of socialized medicine. Despite ongoing threats to quality service posed by underfunding and staff cuts, our continuum of care is very much a part of who we are. We deserve to be proud, but we must keep our priorities straight.

Beyond the public investment and the skills of our care providers, our success to date has hinged on our willingness to regulate and limit the impact of market forces on our model of health care. The care of the elderly must follow a similar model of strong regulation and a commitment that quality of care will come before maximization of profit.

That is why we have submitted our recommendations to your committee. We wish you well in your deliberations. I thank you for this opportunity. OPSEU will be submitting a brief on this issue.

The Chair (Mr. Shafiq Qaadri): Thank you. Less than 20 seconds: Mr. Miller.

Mr. Paul Miller: Thank you. My youngest daughter has joined your ranks. She's going to be graduating as a registered nurse in about three weeks.

Also, I'd like to get your position quickly—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. I wouldn't have enough time for a question.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Why have you chosen the Ministry of Community and Social Services as the regulatory ministry over the Ministry of Health and Long-Term Care?

Ms. Nancy Pridham: Because they already have a framework in place that addresses the regulations that need to be in place. They're already there doing that.

Ms. Sylvia Jones: But isn't the Ministry of Health and Long-Term Care doing it as well with nursing homes?

Ms. Nancy Pridham: No, in retirement homes.

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Ms. Jones. Thanks to you, Ms. Pridham and Ms. White, for your deputation on behalf of OPSEU.

Mr. Paul Miller: Point of order, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Miller?

Mr. Paul Miller: Don't you think it would be suitable to at least let a person finish the sentence they're speaking?

1640

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. At the next subcommittee meeting, I would invite you to propose a formal resolution by the NDP.

Mr. Paul Miller: You will be getting that.

The Chair (Mr. Shafiq Qaadri): Thank you.

REVERA INC.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Nestor of Revera Inc. Welcome, and please begin.

Ms. Mary Nestor: Good afternoon. My name is Mary Nestor, and I am vice-president of communications and government relations at Revera.

Revera is a Canadian-owned company and one of Canada's largest providers of accommodation, care and services, spanning the continuum of seniors' services and support, including seniors' apartments, home health care, retirement, long-term care, convalescent and transitional care and skilled nursing in Canada and the US.

We own more than 220 retirement and long-term-care homes, including 40 in select US locations. Over 26,000 residents live in our Revera locations, and we provide employment for over 26,000 people. In Ontario specifically, we operate 72 retirement residences, are home to over 4,500 seniors and provide employment to over 3,000. In addition, Revera owns and manages over 66 licensed long-term-care homes within Ontario, within the publicly funded and government-monitored long-term-care system, and we're home to over 8,000 frail and elderly residents.

Revera's retirement residences in Ontario are all members of the Ontario Retirement Communities Association, otherwise known as ORCA, and accredited through the association. We are also very active members of ORCA. For example, our vice-president of retirement operations in Ontario is an elected member of ORCA's board of directors.

For over a decade, ORCA and its members had been advocating for consumer protection legislation in Ontario's retirement homes sector. In fact, ORCA took a leadership role with the development of ORCA standards for accreditation, which have already been referenced this afternoon. These are mandatory for all ORCA members and are a prerequisite for membership.

As a representative of Revera and an ORCA member, we support the government for introducing this legislation and feel that, on the whole, Bill 21 captures the legislative framework that will afford effective consumer protection.

Some specific components of Bill 21—the residents' bill of rights, the formation of residents' councils and setting care and safety standards—are all areas where Revera has its own national standards across our Canadian operations. We therefore commend the Ontario

government for entrenching these aspects into a legislative framework. There are, however, a number of key areas in the draft legislation that we draw to your attention and request your serious reconsideration on prior to finalizing Bill 21.

I have separated my issues into two themes: first of all, resident choices; secondly, the power, scope and mandate of the retirement homes' regulatory authority.

I will preface my remarks by making an observation about a very important and significant issue: the distinction between retirement living and long-term care. Although the two sectors are often linked in public discourse, and perhaps even public policy and planning, that approach does a disservice to those individuals living in retirement residences across our province. Retirement living is about making personal choices in lifestyle, in accommodation and in support services. Many residents living in Revera's retirement residences are fiercely independent individuals who make their own choices. Many drive their own cars, take vacations and organize their lives as they wish, and associate with whom they please, when they please and make their own opinions very well known.

I would respectfully caution legislators, when designing consumer protection legislation, that it is not designed in such a way as to restrict independent individuals from exercising their own rights of choice and decision-making.

Before I address the two themes I mentioned, one foundational aspect of the legislation having an impact on daily operations merits addressing: namely, the definition of "staff." The definition of "staff" in the current draft legislation is too broad. It includes not only direct employees but also every person who works or provides services at the retirement home within the context of a contract or agreement with the licensee or between the licensee and employment agency or third party.

This becomes an issue when other references to staff are made in the legislation; for example, the requirements relating to hiring, screening, skills and qualifications and training. Similarly to other retirement home operators, at Revera we contract with a very wide variety of external providers of services, such as physiotherapists, laboratory services, pharmacists, landscape and building contractors, electricians, cable installers, snow removal services—the list is considerable.

By narrowing the definition of "staff" in legislation to include employees and contracted care staff and by adding a separate definition for "other" or "third party contract staff," appropriate requirements can then be developed collaboratively to appear in regulation for those distinct groupings of service providers whose needs for education, training, in-service credentialling, hiring, screening etc. are different.

On the first theme, relating to residents' choices and rights: In the definition of "care services," the inclusion of the broad phrase "provision of a meal" is too open and will result in the inclusion of many residences that would not normally be considered retirement homes in the

definition of a retirement home. One of the primary examples, and a realistic example from Revera's experience, as has already been mentioned before in a submission by ORCA itself, is a seniors' condominium that has a restaurant which offers meals in the same way that you or I would choose to go out to a restaurant instead of cooking a meal at home. That would be considered a retirement home if in addition there was, for example, an office staffed with an RPN for a few hours a day for drop-in visits by seniors to get their blood pressure monitored. A meal should be defined as a structured program in which all retirement home residents participate rather than just an open option. This will better distinguish between actual retirement homes and other types of seniors' housing.

In keeping with my earlier remarks about retirement living being all about choices, section 62, outlining requirements for the development of care plans for every resident living in a retirement home, is far too prescriptive and will fundamentally alter the relationship between residents and the retirement home in which they have chosen to live. Many residents are independent and require little or no assistance. Not all residents wish to have a care plan, and as competent adults they have this right. Care plans reflect what residents choose and not what health professionals prescribe. Residents may not wish that legislation requires that they not only be assessed, regardless of their circumstances, but that care plans be developed for them and about them.

The level of detail and administrative requirements, as currently drafted, will shift the emphasis from the provision of chosen services and care to administrative activities of documentation and paperwork. We recommend that this section be altered significantly in the legislation to cover overall principles of resident screening, assessment and care planning, and that the majority of this detail be addressed in the regulations when practical, operational and consumer choice perspectives can be more robustly considered. Retirement homes are fully private-pay, and the choice of care services is dependent upon what the specific home offers and the individual resident purchases.

On the second theme, the Retirement Homes Regulatory Authority, in section 75, there is a duty imposed on any person to report to the registrar if they have reasonable grounds to suspect that improper or incompetent treatment or care of a resident that resulted in harm or risk of harm has occurred or may occur. Further on in section 75, a duty is imposed on the registrar. With no ability for decision-making or application of sound judgment to the situation, "the registrar shall ensure that an inspector visits the retirement home immediately" if they receive such a report. The same language is then repeated in "Complaints to the registrar" in section 85.

The term "improper" is very subjective, and the duty to immediately send an inspector to inspect or investigate is based upon this subjective interpretation with no ability to make decisions within a risk-based framework and take into account any nuances of gravity or severity.

The Chair (Mr. Shafiq Qaadri): Thank you for your deposition on behalf of Revera Inc. I thank you, on behalf of the committee, for your presence.

1650

MS. DONNA HOLWELL

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Holwell, to please come forward. Ms. Holwell comes to us, I believe, in her capacity as a private citizen. Welcome, Ms. Holwell. I invite you to please be seated and begin. You have the agreed-upon 10 minutes.

Ms. Donna Holwell: Good afternoon. My name is Donna Holwell, and I'm the owner-operator of a retirement home in Orangeville. I have worked in both the long-term-care and retirement home sectors for over 25 years. Our home is a member of the Ontario Retirement Communities Association, ORCA. To be a member, as you've already heard, we need to meet operating standards and subject ourselves to a peer review every two years.

Personally, I've dedicated many volunteer hours to ORCA committees to assist in setting standards and guidelines for the retirement home sector. I've been an ORCA surveyor, and I currently sit on the standards review committee, as well as participating in the judging process of the awards of excellence program.

I believe that ORCA can be proud of the standards they have set. In fact, homes in other provinces have asked to be reviewed by ORCA surveyors, and some other provincial associations have relied heavily on ORCA standards to assist their members in establishing quality operational practices.

Legislation to regulate the retirement home industry is long overdue. The government is to be congratulated for listening to the public consultations in 2007 and, for the most part, reflecting the opinions of seniors, their families, advocacy groups, retirement home operators and their staff, which were heard during the consultation process.

The proposed legislation should meet its objective to provide consumer protection to the residents in the retirement home sector. There are, however, some areas that may have been borrowed from long-term-care legislation that are not appropriate for the proposed retirement homes legislation, and I would respectfully ask that they be given further consideration before Bill 21 is passed.

My issues are specifically with the definitions of "retirement home" and of "staff," as well as plans of care in section 62.

What is a retirement home? That seems to be everyone's first struggle. Why? Because we are an industry that has listened to consumer choice and responded. Our specific markets shape our business. The desires of a retired downtown business professional may be very different from someone who has worked on the farm all their life. Our buildings and the communities they serve reflect that. It is also reflected in the types of services and

care packages that are available in each home, because each community within the community wants something different. My point in this is that I fully understand that it is a struggle to encompass such a varying sector with one definition. But I ask, is the proposed definition really capturing the audience it was intended for: seniors who require consumer protection?

Many seniors' condos offer a meal or meal package in a restaurant. Add one or more services and you're considered a retirement home? I don't think this was the intent. Retirement homes generally provide two or more meals in a communal dining setting.

The definition of "staff" is also too broad. The proposed definition will capture all contracted workers, as you've heard other presenters say, and I think that should also be reconsidered.

It's important to remember that a resident in a long-term-care home and a retirement home can be quite different. Yes, there are vulnerable seniors living in both settings, but generally, seniors in retirement homes choose to be there and choose the types of services they purchase, sometimes out of want and not need.

For example, in a long-term-care home a person's bed is made on a daily basis. It is checked, changed and reported on if the person was incontinent. This is what this person needs. But in a retirement home setting, a person could choose to make, change and launder their bed linens by themselves or have someone do it for them, not because they cannot do it but because they do not want to do it. I therefore think that section 62, "Plan of care," contains a lot of paternalistic language. It also goes into great detail about plans of care.

There are seniors who live very independently within a retirement home. They make their own medical appointments and attend those appointments by themselves, administer their own medication and do not wish to have the staff of the home involved in their relationship with their physician.

Imagine having a conversation with an independent senior you know: your mother, maybe a favourite uncle. Think of the kinds of questions you would have to ask that person to create a plan of care. There would be a problem statement: How are you ineffectively coping with something? What is the goal in intervention of that problem or behaviour? Now, think of the ongoing invasive system of monitoring you would need to put in place.

For the independent senior, this is not only an invasion of privacy, but demeaning. They have decided to move into a retirement home, perhaps because their eyesight is failing or they can no longer drive or prepare meals, but they are otherwise quite healthy and coping very well. I do not believe their needs will be better served by creating more paperwork.

I agree that understanding a person's needs prior to moving in is important. It is important to ensure that the needs of the potential resident can be met. However, there should be more thought given to whether plans of care need to be spelled out in legislation in this detail.

Committing to this amount of detail in legislation is very cumbersome and unnecessary. Perhaps it would be better to have a statement of intent such as, "The retirement home maintains a system to ensure that the ongoing care needs of the resident can be met." The expectations of how to assess a resident's ongoing needs should be detailed in regulation. This will allow the agency to request that changes be considered if it is discovered that more or less documentation is needed in the future.

At present, I believe that most homes, or retirement homes that are members of ORCA, do have a system to monitor that residents' needs are being met. This system may be overseen by a registered nurse or a registered practical nurse, but he or she is generally not the person who is making notes on a regular basis. Enforcing a formal system of care planning would make operators adjust staffing levels to focus on paper instead of interacting with people. I do not believe it is this legislation's intent to do that.

Again, I would like to ensure that while it's important that legislation protect vulnerable seniors, it is also important to advocate that the rights of independent seniors are not diminished. I believe that section 62 does assume a certain level of frailty and therefore wish that this be reconsidered.

Again, I would like to say that I am, in general, very supportive of Bill 21, and I believe that this legislation is necessary. The legislation will set the framework, and the regulations will provide the necessary detail. In the next few months, we do hope we'll be able to continue to work alongside government to ensure that the details are meaningful to both residents and operators.

Thank you very much for your time, and I hope that my comments will be worthy of consideration.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Holwell. We have about a minute per side, beginning with the PC caucus. Ms. Jones.

Ms. Sylvia Jones: There was a submission earlier today—I think you were here—from the Ontario Health Coalition. They mentioned that there should be a requirement that these homes be accredited in order to obtain a licence. Maybe this is unfair—I probably should have asked it of ORCA—but you're here, so I'm asking you. If the home had ORCA accreditation, would that be a reasonable exchange for getting that licence prior to government regulation?

Ms. Donna Holwell: Yes. I believe that was the question you were trying to phrase earlier.

Ms. Sylvia Jones: It was.

Ms. Donna Holwell: Yes, I do, because I believe we have set certain standards for care and services that, if actually implemented, would see that that would be a safe service to deliver in this province.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): Mr. Miller.

Mr. Paul Miller: I'll pass my time.

The Chair (Mr. Shafiq Qadri): Mr. Dhillon.

Mr. Vic Dhillon: The establishment of an arm's-length not-for-profit authority with an appropriate

accountability framework is a common practice for government regulation of industries that are not publicly funded. Would you agree that maintaining this practice is the right approach?

Ms. Donna Holwell: I do think it's the right approach. I think it's important to consider consumer choice and to make this consumer protection legislation, and I believe that the way it has been set up will accomplish that. So yes, I do.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thanks for your deputation, Ms. Holwell.

WASHAGO LODGE

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Ms. Reed of Washago Lodge. Welcome. Please begin now.

Ms. Susan Reed: Thank you very much for this opportunity. I am the owner of a retirement facility in Washago, which is a very small rural community between Orillia and Gravenhurst. We're a mid-size facility—we have approximately 20 residents—and I have to say that with that ratio of residents to staff, we offer fantastic care, attention, love and support for our residents. I have excellent staff: PSWs, RPNs, activity directors and cooks.

The reason I'm here is because I do see that although this bill in general is very helpful and very necessary, it does not assist our seniors to get the care they need, particularly lower-income seniors on fixed pension incomes. This bill will likely increase the cost of that care to those seniors.

1700

The solution: I respectfully submit that the Ontario government can directly improve the health of our seniors and save a considerable amount of health dollars by redirecting some of the health dollars to fund, even just a little bit, the retirement level of care. Currently, there is no support for our lower-income seniors, many of whom often only have a government pension of \$1,200 to \$1,400 a month, which is not enough for them to get the care they need. What happens when they need just a little bit of support or when they need some delicious, nutritious meals or to get their medications on a timely basis?

A CCAC, which is a fantastic organization, can provide some support, but they can't be there 24 hours a day. They can't be there for each meal and four times a day to give them their medication or to provide them with stimulating activities or companionship. Unfortunately, I'm very, very sad and shocked to say that some of our seniors end up in hospital as a result because they're malnourished—in Ontario, what a thing to say—or perhaps because they just haven't been getting their meds on a regular basis. They just need some minor care support, so they stay in the government-funded hospital, because they can't afford a retirement bed, until they have availability in a long-term facility.

This is so ineffective cost-wise. If we were to redirect some limited amount of the funds—because the retirement home is there for them 24 hours a day. There's a gap between their home and the long term. Yet our low-income seniors don't get access to a retirement facility because they don't have the funds. Long-term care is \$40,000 per individual; that's \$3,333 a month. At-home CCAC support, if they're getting two hours a day: that's got to be at least a minimum of \$1,500 a month. Hospital beds: I'm sure you're well aware of the cost of a hospital bed on a monthly basis. The government, even if they just funded a small amount—upped that \$1,200 to \$1,400 pension by, say, \$1,000 a month—would enable these people to get the care and the support, the food and the attention so that they could stay healthier and active.

We've actually had situations where people have come in in poor health, either in early stages of diseases or malnourished, and after our support for four to six months they've gotten so much better that they've even been able to return home. Our retirement-care seniors are healthier and more active than if they had been put into a long-term-care facility. It's in the government's best interests, both from a health point of view and from a cost point of view, to find some way to help support the retirement-care level for our seniors.

I do want to thank the other commentators; they've had excellent insights, and I hope you've considered them very, very well. Without going into great detail, there are three points that I would like to make.

This bill will cause increased expenses—at a bare minimum, increased administrative costs—to the retirement facilities, as well as likely other costs. As has been previously pointed out, this may well result in increased care costs to the consumer, the seniors, who can't afford it. They just cannot afford it. I have to say that I probably offer one of the most affordable facilities there is.

The legislation also doesn't address issues such as transportation, particularly for rural seniors. Transportation is critical for them to be able to get the care that they need: to the hospital, to their doctors and elsewhere.

As well, I've heard numerous comments in regard to sprinklers. My building is a beautiful commercial building that was built before 1990. I would suggest that the government consider sprinklers as a way—to fund them as stimulus spending. If the government could fund the installation of sprinklers, it would be wonderful for our seniors. Otherwise, many small businesses may not be able to afford the significant cost to retrofit, especially in these economic times. But it would be a very excellent way to provide stimulation in this economy, to find a way to fund the retrofitting of these sprinklers into already existing facilities.

I would be very pleased to offer any further discussions or assist the committee in any way.

Just to summarize, redirecting a small portion of the funds that are already in play, either the long-term funds or the CCAC funds or some of the hospital funds, to a retirement level would give our seniors an opportunity to be healthier and more active, and it would reduce the

stress on hospital beds and on long-term-care facilities. This bill, as I said, may result in increasing the cost of care, and, because of that, may also result in losses of retirement beds and/or businesses if the costs are so significant as to have that kind of impact.

In any event, I thank you for this time and opportunity to raise these issues, and I'd welcome any opportunity to participate with anyone in this matter. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Forty-five seconds per side. Mr. Miller.

Mr. Paul Miller: I think you made a genuine presentation, and I really think you care about your facility. Sprinklers are a costly thing, but I think they should be mandated immediately, and if it's amortized over a period of time for the individual owners to pay for it or if the government comes up with some additional funding that they may sponsor, that's fine with me, but it should be done. There should be no delay.

One question: I'm just concerned. Being a private owner, how could you assure the government—in the distribution of the funding for for-profit organizations, how would the government know that they were getting a good bang for their buck and how would it be administered by a for-profit organization? Because individual homes will raise their prices if—

The Chair (Mr. Shafiq Qaadri): With apologies, Mr. Miller, I'll need to intervene there. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. This bill recognizes that retirement homes vary in the size and scope of the services they provide. What advice could you give the government as we try and develop outcome-based care and safety standards that can be workable for this legislation?

Ms. Susan Reed: I'm sorry. I'm not sure exactly what—

Mr. Vic Dhillon: What advice would you have in terms of the safety standards and the outcome-based care that we intend to provide to seniors as we're developing this policy? Do you have any advice?

Ms. Susan Reed: Well, I think this consultation process is absolutely vital—

The Chair (Mr. Shafiq Qaadri): I'm sorry, Mr. Dhillon; I need to intervene there as well. Incidentally, I do offer the guideline of the seconds remaining. Maybe it might inform the intensity of the prologue that goes on.

But now to the PC side, please. Mr. Martiniuk.

Mr. Gerry Martiniuk: Very simply, our hospital has 35 individuals who should be in long-term-care facilities. What's the situation in your area?

Ms. Susan Reed: We also have many beds in the hospitals that are being utilized by individuals who are waiting for long-term care.

Mr. Gerry Martiniuk: What do you do when someone in your residence needs greater care and you can no longer care for them?

Ms. Susan Reed: We're a cluster location for CCAC, and we work with the CCAC, the doctors and the families to investigate whatever needs can be met.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Martiniuk, and thanks to you as well, Ms. Reed, for your deputation on behalf of Washago Lodge.

Just once again, to repeat on behalf of all members of the committee and those attending, for any follow-up questions or other materials that perhaps arise from the cross-examination today, you are most welcome and invited to submit further written materials to the committee in terms of follow-up.

CANADIAN AUTO WORKERS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Ms. McMurphy on behalf of the CAW, to please come forward. And colleague.

Mr. Tim Carrie: Obviously, I'm not Ms. McMurphy.

The Chair (Mr. Shafiq Qaadri): Well, I dare not classify, but I welcome you to please introduce yourself and please begin.

Mr. Tim Carrie: Thank you very much. My name is Tim Carrie. I am president of Local 27 in London, Ontario, representing close to 8,000 members, along with retirees. We also represent 2,500 members at the London Health Sciences Centre and St. Joseph's Health Care. My colleague Nancy McMurphy, unfortunately, could not be here today. She and myself are also national executive board members of the Canadian Auto Workers.

1710

As many will no doubt know, CAW Canada represents over 155,000 members in Ontario, including some 21,000 members in health care and 1,500 members employed by retirement homes that would be subject to the proposed legislation.

We speak today as tireless advocates for residents on behalf of the many thousands of CAW members, retirees and their family members residing in retirement homes, but we speak equally as determined advocates for our retirement home members working to provide quality and compassionate care to these residents.

All too often, the invaluable contributions, dedication and compassion of retirement home workers are ignored. These workers continually struggle, often without adequate support or training and with inadequate equipment and supplies, to provide quality care with a sincere, human connection and loving touch. They themselves are subject to verbal and physical abuse, or racial or sexist harassment by residents and others.

As their workplace representatives, we are heartened that regulation and public oversight are being brought to the largely privately owned and operated retirement home sector. It has been a long time coming and is many decades overdue. It has been a task that all parties, in turn, as government, have at various times failed to initiate in recent decades, such as lack of support for Lyn McLeod's private member's bill, Bill 53.

The present proposed legislation and debate echo both the initial effort to provide a legislative framework for the emerging nursing home sector in the early 1970s as well as the reform of the Nursing Homes Act in 1987.

Not surprisingly, given the broad downloading from acute and chronic care hospitals to long-term care and that ever-increasing waiting list for long-term care, the residents of nursing homes in those days were far more similar in acuity and health condition to current-day retirement home residents.

So, as we strongly commend government for this initiative, we nonetheless strongly express our disappointment and dismay that seniors in retirement homes were for so long afforded such low priority, and that, after such prolonged delay, the resulting regulation is so limited in substance.

Even Bill 56, a decade ago, provided that a care home should have sufficient staff. Today, this sector is caring for ALS patients discharged from hospital and otherwise, by stealth-morphing into unregulated nursing homes.

The clear challenge of any statutory regulation of care homes is to be respectful of the continuum of care and assistance in activities of daily living provided to seniors, ranging from independent congregate living arrangements to supportive and assisted living arrangements, and concluding with retirement homes that, in many meaningful respects, operate virtually as unlicensed long-term-care facilities.

We have found it ironic that retirement homes would have remained unregulated, privately funded care homes but nonetheless designated as hospitals for labour relations purposes under the Hospital Labour Disputes Arbitration Act, otherwise known as HLDA. We welcome this opportunity, therefore, to provide our views on Bill 21, the Retirement Homes Act.

The most fundamental matter, in our view, in either the long-term-care or retirement home sector, is the critical role of the principle of minimum staffing standards, a position we have consistently set out in our previous submissions concerning long-term-care reform surrounding Bill 140 and the accompanying regulations.

We remain highly critical that neither the statute nor regulations accompanying Bill 140 provided a statutory or regulatory minimum care standard for staffing. However, we also acknowledged and commended the other significant elements proposed for strengthening the rights of residents, protecting whistle-blowers, enhancing the continuity of care and training and orientation for direct-care staff.

The recent past in Ontario concerning seniors' accommodations and care services is ample proof that relying on self-regulation, invisible market forces or private litigation can never effectively substitute for appropriate public regulation and oversight to ensure minimum standards of quality care.

We need to define what a retirement home is. We recognize that the seniors' housing market is a diverse and varied sector. So defining a retirement home under this statute to reflect that diversity should rely on a purposeful and functional approach.

We need to ensure that whistle-blower protection is in the legislation.

Staff training and background checks: We accept that the retirement homes workers are critical to the provision of quality care and ought to have access to the appropriate skills development and training provisions necessary to maintain and enhance their skill and qualification as set out in section 65. That should require every licensee of a retirement home to expressly plan for and ensure provisions of the prescribed qualifications.

Care planning and resident needs' assessment: It is essential that there be provision in the proposed bill enabling the audit of the resident assessment and care planning process to ensure the consistency and compliance of assessment, care plans and actual care services performed. We would recommend section 77(5) in terms of the powers of inspection include conducting such verification or audits to ensure compliance as required at section 62(10) and section 98(2)—a list of offences, including failure to conform or comply—in providing care services to the residents' assessed needs and care plan.

We need regulatory standards. The Retirement Homes Act, 2010, as drafted, relies on registration and licensing rather than on setting forth the statutory regulation necessary to ensure that some place operate as "a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options."

The retirement home sector is virtually exclusively operated on a for-profit basis, and often through the same dominant corporate entities that operate in the long-term-care sector in this province. We welcome the provisions at section 3(1) that seek to provide a broad interpretation of "controlling interest," and urge that any registration and licence issued under the proposed act expressly provide not only the common operational name of the home but also identify the controlling interest.

Last but not least, we recommend that there be an appeal structure. We recommend including in part VI, "Appeals," the right of a resident or any other party acting on behalf of a resident to similarly appeal any decision or lack of decision or action by the registrar to the tribunal. In other words, it should not be exclusively the right of operators to appeal decisions or orders of the registrar.

As is apparent from our presentation today, this initiative is but the tentative first step in making a real and lasting difference in ensuring that retirement home residents live with dignity, respect and autonomy. Our complete presentation is at the back on the table.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Carrie. About 30 seconds a side: Mr. Dhillon.

Mr. Vic Dhillon: We've heard from seniors and other stakeholders that a third party agency would be the most effective method for regulating the retirement home sector. Why should we take an approach which is inconsistent with what we heard from seniors and other partners in the sector?

Mr. Corey Vermey: I think you'll see that our submission at the top of page 4 speaks to that issue. Clearly, the level—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon.

To the PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: A quick one: As you know, I'm a steelworker, you're an auto worker, and safety and health is very important to us and our unionized workers, as well as the residents. Does the CAW support mandatory sprinkler systems for aged homes?

Mr. Tim Carrie: Yes, absolutely.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Mr. Carrie and your colleague, for your deputation on behalf of the Canadian Auto Workers.

ALZHEIMER SOCIETY OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I'll now invite our next presenter to please come forward: Mr. Harvey on behalf of the Alzheimer Society of Ontario. Welcome, and please begin.

Mr. David Harvey: Thank you, Mr. Chairman, and thank you, members, for this opportunity to discuss with you some of the aspects of Bill 21.

I want to begin by commending the government for its efforts to strengthen the quality of care and safety for residents in retirement homes across Ontario. However, having said this, our organization and a number of other stakeholder partners I have had discussions with have serious concerns about whether these efforts and the resulting bill have in fact accomplished the desired strengthening.

1720

While Bill 21 has gone to some length to identify the rights of residents as well as put form around their safety and care, we question whether or not the provisions for the authority as assigned are going to be sufficient to protect these rights of residents.

The act also has not focused adequately on the specific and ever-changing health care needs of an aging population, nor has there been adequate response and sensitivity to the unique risks of the aging client group, frequently presenting with impairment issues. Indeed, it is the changing needs of this population that present the greatest challenges.

It's interesting to contrast recent submissions that I've heard in the last hour I've been in the room. Most of these submissions have focused on light care. However, our concerns are around residents who require more care. It is this ever-changing need of residents that exemplifies the complexity of the issue that you are struggling with today.

We are dismayed at the seeming internal contradiction in the act, where subsection 65(5) specifically calls for training of staff in mental health issues, including care of people with dementia, and behaviour management. Yet in the section of definitions, there is no provision for care in these two specific areas, nor is the care outlined in

section 62. If these two health issues are such a significant issue that they need to be identified in staff skills, we would suggest that they also need to be defined under the definitions section and specified under section 62.

We know of the growing prevalence of dementia and of the psycho-social needs of aging adults, and we urge you to amend the legislation to provide for cognitive health and mental health in the definitions section and in section 62.

We commend the provision for establishing the different classes of retirement homes, although we would have preferred that the classes be defined in the act. We will expect that operators who represent themselves as serving people with dementia and offering a secure unit will be subject to the most stringent standards under the classification system.

Our other concerns and proposals are outlined in the supplementary information. However, in the last few minutes, I want to address one issue that isn't included in the written brief, and that is regarding restraints and secure units. We are concerned that the provision for restraints and secure units should be made to allow for both of these instances at all. We think that if a person requires this highest level of care, a higher level of regulation is required; read "a long-term-care facility." If it is allowed, it should be restricted to the highest classification contemplated in the act and should only be allowed under the order of a regulated health professional. To restrict this kind of civil right simply by a person designated by the authority is, in our minds, incomprehensible. The designation of a regulated health professional gives an added protection to the resident.

I'm going to stop there. I'm going to leave an opportunity for any questions, and otherwise you'll read the rest of our submission. But we have only a few minutes left, so—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Harvey. We've got a minute and a half or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I'm actually quite surprised that we would be talking about Alzheimer's patients in a retirement home setting. Is that a common occurrence?

Mr. David Harvey: That is a common occurrence, and the provision in the act for restraints and secure units certainly addresses the fact that the act recognizes that this will be a group of people served by this level of care.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: I concur with many of your statements. In reference to the restraint part at the end, you mentioned that you would like to see an overseer from a medical background. Who would administer the actual act of restraining if the administrator isn't there?

Mr. David Harvey: A very good point. That's what we were saying about classification. It should only be provided in those facilities where there's 24-hour-a-day regulated care being provided.

Mr. Paul Miller: So a good overseer would be at least a registered nurse, or a comparable, to direct the staff to do it properly?

Mr. David Harvey: That's correct.

The Chair (Mr. Shafiq Qaadri): To the government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation.

This bill is essentially about consumer protection. Currently seniors can purchase services, just like they could in a home, from a retirement home. Don't you feel that it would be important to make this process safer in a retirement home?

Mr. David Harvey: Consumer protection assumes it's an informed and capable consumer. We're talking about people being cared for whose capacity is impaired. Therefore, that's a higher level of vulnerability and requires a higher level of protection than is normally found in consumer protection law.

Mr. Vic Dhillon: There are things in the bill that address that as well—

Mr. David Harvey: Not really, I would suggest, to the level of care being offered.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Harvey, on behalf of the Alzheimer Society of Ontario.

PERSONAL SUPPORT NETWORK OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Blakely, on behalf of the Personal Support Network of Ontario. Welcome. You've seen the drill. I invite you to please begin now.

Ms. Sarah Blakely: Thank you very much to the standing committee for the opportunity to present today. My name is Sarah Blakely. I'm with the Personal Support Network of Ontario, PSNO. We are an organization that is the voice of personal support professionals in Ontario. We strive to help personal support professionals carry out their work more effectively by offering them access to information, resources and tools so that they can do their job better.

We applaud the government for taking steps to ensure that we have appropriate measures in place to protect seniors who choose to live in retirement homes. However, we wish to bring to the committee's attention a number of concerns from a personal support perspective with regard to the legislation.

We have three key recommendations for your consideration:

- a clearly defined scope of practice for personal support workers in retirement homes, established care standards, and required supervision of PSWs;

- establishment of standardized education and training for PSWs; and

- resident safety through PSW self-regulation.

There is currently no universally accepted definition or protection for the title "personal support worker." The title encompasses jobs previously known as health care aide, personal attendant, home support worker and so on. Generally speaking, PSWs are front-line workers who provide a variety of personal care, homemaking and

support services to individuals in retirement homes, long-term-care facilities, private homes, community home care, supportive housing and hospitals.

There are approximately 90,000 PSW-like workers in Ontario, 60% of whom work in facilities which include long-term-care and retirement homes, and the remaining 40% are in the community. PSWs also provide 67% of the volume of home care services in Ontario.

As unregulated health care workers, PSWs are not certified by a regulating body. A PSW training certificate is issued by a training institution if the worker has taken a formal training program. Formal PSW training is based on a curriculum developed by the government of Ontario and the Ontario Community Support Association, and includes a minimum of 600 hours of training over 14 modules, which is theory, evaluation and a practicum. However, not all PSWs obtain formal training, resulting in a wide variance from one PSW skill set to another, and making it difficult for an employer to determine the abilities that a particular employee may possess.

PSWs provide a range of services specifically tailored to the client, including home management, personal care, family responsibilities, and social and recreational activities. While PSWs do not offer treatments, their support can impact the client's health, status and overall wellness significantly. Within their scope of practice, PSWs often administer oral or topical medications or eye drops. These tasks are often part of the PSW's job in a retirement home.

While these acts may be done safely, we call the committee's attention to a necessary distinction between a permissible act and an unsafe context in which the act is expected to be performed. For example, without care standards, a PSW may continue to be asked to administer medications in an unsafe context, where this could be too many residents in too short a period of time. In some cases PSWs can perform a controlled act under specific circumstances as set out in the Regulated Health Professions Act, or as delegated to them under supervision of a regulated health professional such as a registered nurse or registered practical nurse. Controlled acts are procedures whose risk to public safety has caused them to be restricted to members of a regulated health profession.

1730

We are concerned that PSWs will be asked to perform these acts outside of permissible settings or without legislative support. In order to utilize these workers to their full potential in retirement homes, several key issues need to be addressed. These are resident safety through self-regulation, defined education and training standards for PSWs, and scope of practice and supervision. Each of these recommendations will support the improvement of quality of care provided by PSWs and increase public confidence in the care they will receive in retirement homes. With these measures in place, the province will be further ahead in reducing health care costs by ensuring that the right care is provided in the right place by the right provider.

I'd like to speak to resident safety through self-regulation. In 2005, the Minister of Health and Long-

Term Care asked the Health Professionals Regulatory Advisory Council, HPRAC, to make recommendations regarding the regulation of PSWs under our HPA. HPRAC's final response in 2006 recommended that PSWs should not be regulated.

In the absence of regulation, PSNO recommends that the standing committee consider that a registry and provincial certification for PSWs be adopted. These recommendations could be done at a low cost, but produce better care results and increase the safety and security of residents receiving care in retirement homes.

A personal support occupation registry would be a step to improving the public's perception and trust of PSWs and the care received in retirement homes. We propose a public registry of personal support occupations. Registration would require a clear result from a routine vulnerable screening check, confirmation of Canadian citizenship or permanent residency status and a list of all employment in health care.

Information gathered should include basic demographic data, date of certification and a work record of any successful termination, and for what cause. This information should be available to all prospective employers, similar to a police check, but available only with the consent and authorization of the PSW involved.

There should be an independent body of some type, made up of peers and registered staff who understand the work done by PSWs and are able to adjudicate the registry status of PSWs. The registry would be overseen by PSWs, employers, regulated professionals and other health care stakeholders, making this a truly collaborative approach.

Persons could be removed from the registry for a number of specific reasons, such as being convicted of a criminal offence or if dismissed from work as a PSW due to incompetence or inappropriate conduct. In this way, a registry would enable potential employers to identify individuals who are unsuitable for employment as PSWs.

With respect to certification of personal support workers, the Personal Support Network of Ontario suggests that province-wide minimum standards and competencies for PSWs be established. PSWs would either have to meet these standards or demonstrate these standards prior to practising by holding a certificate from a recognized educational program or demonstrating adequate competency through documented experience.

PSWs should be required to complete a standardized entry-to-practice examination and a practical skills evaluation to gain certification. PSWs would also sign off on a PSW code of conduct commitment. This will ensure that all PSWs entering the health care system will be fully capable and competent to perform the duties usually ascribed to PSWs.

Criteria to qualify for a registry could change as it evolves. Eventually, members of the PSW registry could be the only individuals practising in the health care system who would be permitted to use the title of PSW or a variation thereof. Title protection would provide clarity for the public, employers and other health care professionals, but would also require legislative authority.

Defined education and training standards for PSWs: Stakeholders have become increasingly concerned over the lack of accountability and quality issues in the training of personal support workers. Without clear accountability, proper oversight and coordination of PSW training, it will be difficult for the government to deliver on its mandate for quality health care and control of health care costs.

Currently, not all PSW training organizations are equal in their commitment to prepare students as PSWs or to follow established training standards. We feel strongly that an accreditation process for PSW training programs, based on Ministry of Health and Long-Term Care PSW program standards, would address these issues and improve the overall quality of graduates. Training standards for all training organizations should be enforced by an independent third party.

The scope of practice and supervision of PSWs is a policy issue that is increasing in importance due to the rising number of complex care and chronic disease cases PSWs manage in the rising health human resource challenge. Currently in retirement homes, responsibilities that were traditionally the domain of RNs and RPNs are now being shifted to PSWs.

While PSWs perform a wide range of skills, it is not within their scope of practice to make independent decisions about a client's care plan. They follow a defined care plan and are limited to assisting with activities that an individual would be able to perform on his or her own if they were able to.

In order to support PSWs in managing complex cases, proper supervision is required and essential. This includes appropriate ratios of supervisors to PSWs and clear processes for assigning and monitoring the PSWs' work.

PSWs are an important human resource across our health care system. Among health care providers, we see a lack of clarity regarding the role of PSWs. There is no consistent understanding of what a PSW can and cannot do in the various health care sectors and where they play a key role. A defined scope of practice for PSWs would clarify what PSWs can and cannot do in a retirement home setting. Practice standards would support a clear shared concept of the scope of role for PSWs, clients, educators, employers and the general public. Virtually all health care professionals have a well-defined and well-known standard or scope of practice statement. PSWs need this as well—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Blakely. I'll need to intervene there and thank you on behalf of the committee for your deputation on behalf of the Personal Support Network of Ontario.

Ms. Sarah Blakely: Thank you.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Chair (Mr. Shafiq Qadri): I now invite our next presenters to please come forward: Mr. Beckett and Mr. Jessop on behalf of the Ontario Association of Fire

Chiefs. Welcome, gentlemen. You know the drill. I invite you to please be seated and begin now.

Mr. Tim Beckett: I guess it's "good evening" now. I'm Tim Beckett; I'm the fire chief in Kitchener and I'm also the president of the Ontario Association of Fire Chiefs. With me is Deputy Chief Jim Jessop from Niagara Falls.

Without exception, the issue of public and fire safety is of the utmost importance to the fire chiefs in Ontario. That's why the 478 fire chiefs in Ontario go to work every day. It's for that reason that we've brought the issue of sprinklers in retirement homes to the forefront. It's something we, as Ontario fire chiefs, believe is the next step to improving safety. I know that the fire marshal's office, the Ontario Professional Fire Fighters Association and the Fire Fighters Association of Ontario, though I don't speak for any of the three, are on record to say that they do support sprinklers in retirement homes.

With that, I'm going to turn it over to Jim, who will walk you through a background and reasons why.

Mr. Jim Jessop: Thank you, Tim. Between 2008 and 2009, Ontario witnessed three catastrophic fires in retirement homes. At the Rowanwood retirement home in Huntsville, if it wasn't for two off-duty OPP officers who saw flames raging through the roof at 11 o'clock at night, 56 seniors could have lost their lives. In that fire, there was over \$8 million in property damage and, thankfully, no fatalities. A month later in my city of Niagara Falls, we had a fire at the Cavendish Manor retirement home that resulted in 11 seniors being transported to hospital, three to McMaster hospital in Hamilton in critical condition. Approximately six months later, the Muskoka Heights retirement home caught fire in Orillia. That resulted in four dead seniors and three permanently brain-damaged. This is all within the last 18 months.

The province of Ontario has witnessed two of the largest retirement home fire deaths in the history of North America. In 1980, 25 senior citizens died at Extencicare in Mississauga; in 1995, eight died in the Meadowcroft retirement home in Mississauga; and in 1997, three seniors perished at the veterans' wing of Sunnybrook hospital.

Those three aforementioned fires resulted in three separate independent coroner's inquests all calling for the retroactive installation of sprinklers in retirement homes and long-term-care homes. To this date, this has never been implemented.

In 1997, the Ontario building code was amended, following the eight deaths in Mississauga at the Meadowcroft fire, requiring all new retirement homes to be sprinklered. The government of the day and previous governments have not followed through on the recommendations from the three inquests requiring the retroactive installation of sprinklers in older retirement homes.

Cost is often over-exaggerated. In Niagara Falls, we have had three homes retroactively install sprinklers since our fire, and the cost has been, on average, \$3.50 per square foot. To put that into perspective, the

Muskoka Heights retirement home killed four people, permanently brain-damaged three senior citizens and cost over \$800,000 in property damage. The estimated cost to sprinkler that building afterwards was \$41,000.

1740

In terms of response, 38 of the 44 deaths in retirement homes in this province since 1980 have occurred within our largest cities—Toronto, Mississauga and Ottawa—with the greatest resources and the fastest response times. We ask the committee to consider the number of retirement homes in the province of Ontario that are serviced by rural fire services, where we can expect fewer resources and longer response times.

Finally—to allow time for questions—statistically, the fire marshal, in his push to put in sprinklers, has stated categorically that in three minutes or less, a room and a zone—which is a floor—is untenable in a fire because of carbon monoxide and toxic smoke. The average response time in Ontario by the largest fire services is five minutes. They will be dead before we get there. That is just a fact.

Finally, there has never been in North America, according to NFPA, the National Fire Protection Association, a multi-fatal fire in a retirement home that has been protected by sprinklers. That's our statement, barring any questions.

The Chair (Mr. Shafiq Qaadri): Thank you. There's about a minute and a half per side, beginning with the government. Mr. Johnson.

Mr. Rick Johnson: Just a couple of things: The door hasn't been closed on any options for fire safety or sprinklers in this bill, and a number of things have been put in, like specific evacuation plans, training for staff and in older places. What percentage of retirement homes currently either have or don't have sprinkler systems?

Mr. Jim Jessop: According to the report from the fire marshal's office that was published in the Globe and Mail, approximately 4,300 of what they deem care occupancies in the province, which may be a mixture of retirement and long-term-care homes, are currently not protected by sprinklers.

Mr. Rick Johnson: Is everything under the fire code? Are regular inspections of these residences being done by the fire marshal's office?

Mr. Jim Jessop: Currently, they are not required by law, no. There is no law in Ontario that states that retirement homes or long-term-care homes have to be inspected annually or semi-annually.

Mr. Rick Johnson: I'm the son of a firefighter, and I understand where you're coming from. Thank you for those answers.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk.

Mr. Gerry Martiniuk: I read in the paper that the firefighters' association is against sprinklers in retirement homes. Is that report incorrect?

Mr. Tim Beckett: We have them on record as saying they are in support of sprinklers. They have claimed that sprinklers are a tool within the tool box. We, as the fire

chiefs, believe that sprinklers are the greatest tool in that tool box.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: How would you consider a situation where a lot of homes before 1990 are not covered by the 1990 legislation and new homes have to have sprinkler systems? A large percentage of the old folks' homes in this province do not have sprinkler systems. How do you distinguish between a senior in one of the older homes before 1990 and the ones who are after 1990? I think it would be, "What's good for the goose is good for the gander." Would that be a good observation?

Mr. Tim Beckett: That's right. What we're looking at right now is a two-tier fire protection system: those pre-1997 and those post-1997.

Mr. Paul Miller: I could safely say that from your experience—you've made it quite clear that sprinklers would have saved some of those 37 or 40 people who died in our province. Sprinklers could have made a big difference.

Mr. Tim Beckett: We believe so, yes.

Mr. Paul Miller: It's a no-brainer. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Mr. Beckett and Mr. Jessop, for your deputation on behalf of the Ontario Association of Fire Chiefs.

MS. DEBORAH LAFRENIÈRE

The Chair (Mr. Shafiq Qaadri): I will now invite our last presenter of the day to please come forward: Ms. Deborah Lafrenière. Welcome. Please begin.

Ms. Deborah Lafrenière: Good evening. First of all, I'd like to say that I'm not an owner or an operator, and I have no representation with any union or thereabouts. But I am the person who goes into these facilities, whether they're large or small, and helps the CEOs and board of directors bring them to meet certain standards, from the level where they are to the level I leave them at for the contracts I establish with that company.

Part of my process—and I've read Bill 21—as a registered nurse as well, going forward, I've had the opportunity to work with ORCA, and I've had the opportunity for accreditation within the long-term-care sector. I've been part of the telehealth process, so I am very familiar with safety components as they relate to community by working with other organizations that compete for RFPs.

I commend the government for this process being put forward. I think the standards are a long time coming. I also, in review, have seen that some of them have been adapted through the ORCA process and have been built upon.

With that being said, some of the concerns that I'd like to bring forward are things that have been shared with me when I go from facility to facility. Those are, number one—and I've heard it from other presenters here this afternoon—the costing. A lot of the non-profit and for-

profit organizations look at where the money comes from. Each one has their own strategic outline of where they need to spend the money and where they need to make profit as well. Often, that's at the cost of the senior. When I go into facilities and I see some of the devastation that they're living in, it's totally appropriate for the standards that you have now put in place. When I talked to the owners and the residents—these people come forward as far as admission processes and setting up standards, that you share open information and you have dollars and cents made available, so that people who are coming in know what they're paying for and what they're going to receive for that. That definitely needs to be outlined.

There's so much variance between choice—I've heard "choice" used here so often. It's a choice for a person to go into a retirement home, whether it's at a \$3,000 level or an \$11,000 level. Individuals have a choice for the care that they give. What they're able to afford is another factor. But where those dollars are then spent is the issue that comes forward. We can have all the funding made available—and that's a big thing. Companies are saying, "I wish the government would subsidize part of that." We hear that transitional care these days is cutting back, with the government not being able to house more long-term-care beds and wanting to put it through to the retirement sector. That being said, where do the dollars come from and how are they going to be utilized—not to be pocketed, but put back into programming and food service, for resident care days etc.

What I'd like to talk about too are care plans. I've read in your information put forward that care plans are essential, but it's the update of those care plans. Anyone coming in can be very independent, and you can say very well that this person is independent, that they require no care at this time, but it has to be reviewed, because a person's care deteriorates and changes every so often. Guidelines need to be put in place so that they are reviewed, that the competency level of that individual is always assessed and reassessed by the nurses or physicians in hand.

We've also heard about sprinkler systems. A lot of the older facilities would never be able to retrofit sprinklers in all those rooms. They may have them in other parts of their building, but in a small community where a building is old—to take that building away would totally devastate that community. They can go through all the fire training with the employees and have them sign off. You can have the fire inspectors come forward, you can have all your mechanical people come in and test the bell systems and everything else, but again, of what value—you're looking at saving lives, and I totally agree with that. However, those people live there. To take them out of that small community would totally devastate them. For the government to fund that—is the building even able to be retrofitted? That is another big concern.

CCACs and other facilities are definitely putting in cuts. I think we need to adopt the ORCA grading system, or to establish a grading system where retirement homes

definitely have an obligation to meet the standards. Based on those, you would have certain levels, much the same as they do when public health comes in and looks over our food service industry. You either get a pass or a fail, and if you don't, you have so long to correct that.

I also listened to presenters who talked about the overall costs as far as the freedom of choice. Everyone has the freedom of choice. A lot of times when you hear of individuals on locked wards—I myself have gone into many locked wards, whether they're mag-locked—they are dementia and Alzheimer individuals, and it's for their safety that that has been established. The current guidelines that are in place follow much of what ORCA has put forward and has reviewed, and I present to them those as well.

That being said, those choices, for those individuals who don't have the ability to make up their own minds, are made by their care providers, or the ones who have the power of care. They're the ones who are speaking forward to them. As far as restraints, even that locked unit is a restraint which needs to be signed for. As far as a mechanical restraint, it's no different than a chemical restraint or a drug dose. Each one has to be viewed individually with that individual, with their family being part of that process, and the nursing staff that provides that the care plans are implemented through that as an overall component. It's not just one part of this person; it's looking at the person as a whole.

With all that being done—the consumer protection—the legislation that you're putting forward definitely stands strong. It definitely has areas that need to be worked upon. I heard many very positive things from all the presenters who were here. However, when I sit in front of an individual and their family members and they cry because they can't afford the funding that's out there because they are on limited income, whether that's pensions or otherwise, and they're looking for that subsidy—you look at a costing war between retirement homes. You see some individuals who offer a total complex of care, from very independent to end of life, and who don't charge in between as the independence deteriorates. Other facilities will charge every little aspect as soon as the independence starts deteriorating, whether it's getting the nurse to answer a call bell, waking them up in the morning, getting them dressed etc. The fairness in the dollars and how they're spent varies from one facility to another. What that individual or that retirement home is able to fund is based on where they are in the community, how many residents or occupants they have. I've gone into facilities that were ORCA-approved, and there were separate units within the ORCA building that were owned and operated by other individuals, yet they didn't fall under the guidelines for inspections. Where's the fairness there? Yet when I've had the opportunity to step inside, what I've seen is total devastation, people living with broken chairs, beds where

linens aren't being changed, where they are not being washed, where food is just being thrown at them. There definitely need to be guidelines, and some of that is definitely vacant from what Bill 21 presents at this time.

I'm just sharing my views as an individual who comes forward and speaks for those who can't and the families who are really frustrated and need these standards developed. This bill stands strong for many of them. I commend ORCA for what they did in the early stages, because I follow those whenever I go to do restructuring. What you're building upon is definitely even more important than that. The families would support it. We need the fairness across the board, but we also need the realistic understanding that not all buildings are able to provide the same services that the higher ones or the multi-corporations are.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Lafrenière. About 40 seconds a side. To the PC side: Ms. Jones.

Ms. Sylvia Jones: I don't have any specific questions. Thank you for coming in, though.

Ms. Deborah Lafrenière: I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Miller.

Mr. Paul Miller: I just have one concern. I don't agree with you about sprinklers. They can be retrofitted for any building. I have a maintenance background myself, and that's not a problem. As far as raising funds for small communities, they send high school bands overseas and it costs a lot more than that. As the fire chief pointed out, \$43,000 for a major retirement home is all it would have cost to put it in. I want to alleviate some of your fears. I think the community would certainly step up to the plate for a small community for retirement homes.

Ms. Deborah Lafrenière: Not from what I've heard.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Vic Dhillon: Thank you for your presentation. How do you feel that this bill improves consumer protection and safety for seniors and their families?

Ms. Deborah Lafrenière: For a long time, retirement homes have been free-floating. There hasn't been a set standard, and now there is something that they have to follow. All homes will be equal as far as the minimum standards that have to be established.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thanks to you, Ms. Lafrenière, for your deputation.

If there's no further business before the committee, I'd like to thank all the deputants for coming forward and just alert the committee that we'll be reconvening for clause-by-clause on Monday, May 17. The deadline for filing amendments is Thursday, May 13 at 5 p.m.

If there's no further business, committee is adjourned.

The committee adjourned at 1753.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Mr. Rick Johnson (Haliburton-Kawartha Lakes-Brock L)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry-Prescott-Russell L)

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener-Waterloo PC)

Substitutions / Membres remplaçants

Mr. Jim Brownell (Stormont-Dundas-South Glengarry L)

Mr. Gerry Martiniuk (Cambridge PC)

Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service

CONTENTS

Monday 10 May 2010

Subcommittee report	SP-103
Retirement Homes Act, 2010, Bill 21, Mr. Phillips / Loi de 2010 sur les maisons de retraite, projet de loi 21, M. Phillips	SP-103
Advocacy Centre for the Elderly.....	SP-104
Ms. Judith Wahl	
Ontario Association of Non-Profit Homes and Services for Seniors	SP-105
Ms. Donna Rubin	
Canadian Union of Public Employees	SP-107
Ms. Candace Rennick	
Rabbi Shalom Schachter	
Ontario Health Coalition	SP-108
Ms. Natalie Mehra	
Chartwell Seniors Housing REIT.....	SP-110
Ms. Karen Sullivan	
CARP	SP-112
Ms. Susan Eng	
Dr. Alexander Franklin	SP-114
Mr. Dev Mundi	SP-115
Ontario Society (Coalition) of Senior Citizens' Organizations.....	SP-116
Mr. Morris Jesion	
Ms. Ethel Meade	
Registered Nurses' Association of Ontario	SP-117
Ms. Doris Grinspun	
Ontario Human Rights Commission	SP-119
Ms. Barbara Hall	
Service Employees International Union, Local 1 Canada.....	SP-120
Mr. John Van Beek	
Ontario Retirement Communities Association.....	SP-121
Mr. Gord White	
Ontario Public Service Employees Union.....	SP-123
Ms. Nancy Pridham	
Revera Inc.	SP-125
Ms. Mary Nestor	
Ms. Donna Holwell	SP-126
Washago Lodge.....	SP-128
Ms. Susan Reed	
Canadian Auto Workers.....	SP-129
Mr. Tim Carrie	
Mr. Corey Vermey	
Alzheimer Society of Ontario	SP-131
Mr. David Harvey	
Personal Support Network of Ontario.....	SP-132
Ms. Sarah Blakely	
Ontario Association of Fire Chiefs.....	SP-133
Mr. Tim Beckett	
Mr. Jim Jessop	
Ms. Deborah Lafrenière	SP-135

SP-6



SP-6

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 17 May 2010

Journal des débats (Hansard)

Lundi 17 mai 2010

Standing Committee on Social Policy

Retirement Homes Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur les maisons
de retraite

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 17 May 2010

Lundi 17 mai 2010

*The committee met at 1407 in committee room 1.*RETIREMENT HOMES ACT, 2010
LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

The Chair (Mr. Shafiq Qaadri): Colleagues, I call this meeting to order. As you know, we're here for clause-by-clause consideration of Bill 21, An Act to regulate retirement homes.

Mr. Vic Dhillon: On a point of order, Chair.

The Chair (Mr. Shafiq Qaadri): A point of order, Mr. Dhillon, then Mr. Miller.

Mr. Vic Dhillon: Chair, I'm asking the committee to grant an approximately 25-minute delay in the start of the proceedings because of some—

The Chair (Mr. Shafiq Qaadri): Twenty-five minutes?

Mr. Vic Dhillon: Twenty-five minutes, because of some unexpected difficulties and problems that we've had in putting together all the material.

The Chair (Mr. Shafiq Qaadri): All I can do is ask the committee if that's their will. I don't know if you're going to need to—

Mr. Paul Miller: Are we going to have time to do all of the amendments if we delay 25 minutes?

The Chair (Mr. Shafiq Qaadri): If we don't finish today, we come back tomorrow my clerk is telling me.

Mr. Vic Dhillon: Chair, I'm proposing we start at, say, 2:30.

The Chair (Mr. Shafiq Qaadri): Did you want to bring your point of order? Was that the vote?

Mr. Paul Miller: Yes. My point of order was simply that I want all votes recorded.

The Chair (Mr. Shafiq Qaadri): Okay. So acknowledged and we'll encode that. Whenever we convene, all votes will be recorded, period.

Mr. Gerry Martiniuk: Excuse me. If we don't finish today, when?

The Clerk of the Committee (Mr. Katch Koch): Tomorrow afternoon. The committee may seek—

Mr. Gerry Martiniuk: Is that in the—

The Clerk of the Committee (Mr. Katch Koch): When the House is sitting, this committee may meet on

Monday and Tuesday afternoons. On Tuesday, we can start as early as 4 o'clock or after routine proceedings in the House.

Mr. Gerry Martiniuk: Tuesday, you'd start at 4 o'clock in the afternoon?

The Clerk of the Committee (Mr. Katch Koch): Yes.

The Chair (Mr. Shafiq Qaadri): All I can do is seek the will of the committee. Is it the will of the committee that we delay?

Mr. Paul Miller: I'm on another committee tomorrow all day. Are we going to get it done today?

Mr. Khalil Ramal: We'll do our best.

Mr. Paul Miller: We have about 39 amendments.

The Chair (Mr. Shafiq Qaadri): I understand there are 102 in total, by the way.

Mr. Paul Miller: I've only got 39 in front of me anyways.

Mr. Gerry Martiniuk: I've only got eight. How much has the government got?

Interjection.

Mr. Paul Miller: Okay. All right.

The Chair (Mr. Shafiq Qaadri): As the clerk is just pointing out to me that though the number goes up to 39, there are many decimals—39.1, 39.2 and so on.

Mr. Paul Miller: I just want to say how efficient the NDP and opposition party are.

The Chair (Mr. Shafiq Qaadri): Which we have known for many years. Thank you, Mr. Miller.

Is it the will of the committee that we recess for 25 minutes? Is that acceptable to everyone?

Interjection: Agreed.

The Chair (Mr. Shafiq Qaadri): All right. Agreed. It is now 2:07, so approximately 25 minutes from now. The committee is recessed.

The committee recessed from 1409 to 1434.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues, for accepting that recess. If there's no further business, we'll move immediately to consideration of clause-by-clause. As was requested by Mr. Miller of the NDP, all votes will be recorded. That's standing for the entire session here.

I now call upon the NDP to present motion 1. I should also just mention that there's a series and flurry of amendments, so I guess the committee apologizes if there's some reordering, resequencing etc. I think several were received just momentarily, so hopefully we'll be able to work through it diligently.

Whatever is the first motion, somebody please present it. I think it's the NDP, motion 1.

Mr. Paul Miller: I move that the bill be amended by striking out “resident,” “residents” and “residents” wherever those expressions appear in the following sections and substituting in each case “tenant,” “tenants” and “tenants” respectively: sections 1, 2, 5, 9, 16, 24, 35, 44, 49 to 51, 53 to 63, 65 to 72, 74, 75, 77 to 79, 85, 98, 101, 105, 106, 110, 115, 121, 123, 124 and 125.

For a short explanation, the Residential Tenancies Act uses the word “tenant” and “care home,” while Bill 21 refers to “resident” and “retirement home.” The language needs to be changed to ensure consistency, but it also should be changed to emphasize the tenancy aspect of the relationship. These are not health care facilities.

That's the explanation, and the member would like to say something too.

M^{me} France Gélinas: You will see that we come with major changes and a lot of motions to try to bring changes to this bill. We strongly believe that this bill, as it is, will do serious harm, and one of the great possibilities for that harm to be done is that we are not clear. Those people are tenants. They have to be referred to as such, and introducing, of all names, the name “residents,” which is what is commonly used in the long-term-care system, will just make a very bad bill terribly wrong with the possibilities to do terrible harm for a lot of vulnerable seniors. This is not a resident in a consumer relationship; this is a tenant relationship that comes with safeguards and with regulations and that has to be respected throughout this bill.

I realize that not everybody who lives in a retirement home is vulnerable, but there is too much of a critical mass of them that are vulnerable to be allowed to have a bill that goes forward that introduces language that could be used against them, that could be used against their care and that could be used, really, in setting up the possibility of abuse.

There are some big issues in the residential care system that have not been tackled that are not part of this bill. We see, all the time, people in residential care who are not getting the care they deserve, and the bill doesn't set any limits on the type of care that you can receive in a residential home. What it basically does is it opens up the door for a parallel service that will be for-profit and unregulated. How can you have hundreds of pages of care regulations in a long-term-care home and have an identical patient with identical needs and no care standard whatsoever? Let's call it the way it is: Those people are tenants, and if we have any chance of rescuing this bill, we have to call them what they are. They are tenants, they are not residents.

The Chair (Mr. Shafiq Qaadri): Merci, madame Gélinas. Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this. As we've set out in section 52, nothing in the Retirement Homes Act takes away from the Residential Tenancies Act. The purpose of this bill is to deal with care and safety, not tenancy, so “resident” is the appropriate terminology, not “tenant.” We have consulted with muni-

cipal affairs and housing on this point, and they as well are in agreement with our approach.

1440

The Chair (Mr. Shafiq Qaadri): Further comments? If none, we'll proceed—yes, Mr. Martiniuk.

Mr. Gerry Martiniuk: Firstly, Chair, for your own guidance, I have no objection, if there are no amendments, to you taking that group rather than individually, from my standpoint.

I would think that we would have to be very careful to ensure that the Residential Tenancies Act applies, and all of a sudden, we have residential tenancies, individuals, who are no longer tenants; they're now residents. I can see, as a former lawyer, a great difficulty that the courts are going to have with that down the road. You are using a different word that describes a different situation. If you have different words in two different bills then there must be some way to distinguish them. I'm concerned that their rights as tenants could dissipate or be amended in a manner that the drafters of this bill did not foresee. Under those circumstances, I would support the motion for amendment.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP amendment 1 is defeated.

Shall section 1 carry? Carried.

We'll proceed now to section 2: NDP amendment 1.1.

Mr. Paul Miller: I move that the definitions of “authority” and “board” in subsection 2(1) of the bill be struck out.

We're amending this bill to have the Ministry of Municipal Affairs and Housing oversee the regulation of retirement homes. The references to the third party regulatory authority have to be removed throughout this bill. It's pretty obvious what's going on here. Not to support this, as Mr. Martiniuk pointed out, is going to be a big disaster down the road. So I caution the committee on not supporting this.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This is inconsistent with the act's intent to create an arm's-length regulatory body. This proposed amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Further comments? Madame Gélinas.

M^{me} France Gélinas: If you bring in the self-regulation, as you have it in your bill right now, what you

are doing—I know that you have said, and I will quote you, “We have told the industry that we’re looking for board members who understand the industry but are not there representing the industry.” Nobody believes that.

All I can tell you is that the retirement home industry has demonstrated that they don’t have the credibility necessary to vest responsibility for regulations solely upon them. I know that you will be appointing a minority of the people to stand on the board. This is not enough. We have seen, right now, that the industry itself mans the crisis line. They have done an abysmal job of it.

When we call upon the industry to do something, they have let the clients down, they have let the ministry down, they have let the people of Ontario down, and you are about to give them self-regulation for a critical mass of vulnerable people of Ontario. This has the possibility to do so much harm. If you pass this bill as it is, we will be reading headlines of catastrophe. We will be reading more about people who are taken advantage of, people who are not being well looked after, people whose finances have not been well looked after, if you pass this bill the way you have it now.

You can’t go forward with this. You owe it to the people of Ontario who are vulnerable to offer them some protection. Protection won’t come from agency-dominated boards, and this is what you’re doing right now: You are sending the fox to look after the henhouse.

The Chair (Mr. Shafiq Qaadri): We’ll proceed, then, to the vote on NDP motion 1.1. Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 1.1 is defeated.

NDP motion 2, please.

Mr. Paul Miller: I move that the definition of “care service” in subsection 2(1) of the bill be amended by adding the following clause:

“(h.1) assistance to promote mental health or to support cognitive health.”

The explanation for this: This comes from the Alzheimer Society of Ontario. Although the act specifically calls for staff to be trained in mental health issues—including caring for a person with dementia—and behavioural management, there is no provision for these services in the definition of care services. This amendment corrects that. The Alzheimer Society of Ontario is supporting this amendment, so I don’t know why you wouldn’t support it. It certainly is an important part of the care of elderly people in this province.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Vic Dhillon: Again, we will not be supporting this motion. There is the ability in the bill to prescribe

another service as a care service by regulation. We are interested in engaging with stakeholders on this issue to determine whether it should be a prescribed health care service or another prescribed service.

This bill recognizes the importance of mental health issues and would require training in this area for direct care staff. It’s not consistent policy to single out one specific health care service.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: Maybe the members of the McGuinty Liberals have forgotten to read the papers for the last five years. There is what they call a tsunami of dementia coming to Ontario. The Alzheimer Society put out their report. They put it nice and clear: The number of people who will develop dementia in Ontario will overwhelm our system if we don’t do anything about it. It has to be recognized because it is the reality that Ontario will be facing. To leave it to, “Oh, maybe sometime, if we get to it, we will do something about it,” is to not recognize the body of evidence that has been presented at many tables to this government that shows the need of the elderly: Up to 20% of them will develop dementia and will need support. We are creating a new bill; we are creating a new law. Let’s put a new law into place that will be cognizant of the reality of what Ontario’s future will be all about, and that means changes at many levels. That means changes at the level of this bill also, to recognize what we will be facing.

There are ways to support all of the people of Ontario who will be developing dementia. This bill has to be part of this support. Otherwise, you are letting all of those people and their families down.

The Chair (Mr. Shafiq Qaadri): We’ll proceed now to the vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 2 is defeated.

PC motion 3: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that clause (i) of the definition of “care service” in subsection 2(1) of the bill be struck out and the following substituted:

“(i) provision of a meal, except if the meal is provided in an area of a retirement home to which all residents have access, or”

1450

The concern is very simple. I have a real concern, in addition to the individuals raising the problem—what is a meal? Let’s take, possibly, Tim Hortons. Let’s say it’s a large building—and we have a number of high-rise buildings in Cambridge that house seniors that are not presently retirement homes. However, they may have a

snack bar or possibly a store which sells chocolate bars and goodies of that kind. The latter may not constitute a meal, but it's incumbent on us as legislators to make sure we've done everything to clarify this.

The concern raised by individuals is either you say "provides meals and two services" when you define a retirement home, which is a subsequent motion to this, or let's nail down what we mean by "the provision of meals." Does that mean that it's available to all the tenants or just a select group? All I'm trying to do in these cases is—I'm just concerned that the way that section is drawn at the present time, that section could be misinterpreted and it's incumbent on us to try to avoid that.

That is the intent of it. As I say, later on there's one that deals with the same subject, and what it says is, let's not worry about how we define meals if there is a doubt as to whether meals are doing—let's take two services plus the meal rather than one service. So I've given an alternative.

However, I think there's a real ambiguity there. We're talking about lots of money, because all of a sudden you're going to regulate, and a private business or a government may not want to be regulated because the services they feel they're providing do not fall under the act.

I think it's a walking lawsuit, I honestly believe that, and it could cost the Ontario government and a private enterprise or other governments a considerable amount of money in coming to the right answer.

What I'd like to clarify is what kind of meal. If we define it broadly, then there's not a problem—and this, I think, defines it broadly, that a meal is for all people—or if we can't define it broadly, then we throw two services in rather than one. I'd be interested in the comments of the parliamentary assistant.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Martiniuk. Just for clarification for the committee, we'll be having recorded votes, unless I'm directed otherwise, just for the NDP amendments.

Any further comments?

Mr. Paul Miller: In reference to this particular amendment, we feel that this excludes meals served in a common dining area from the definition of "care service."

This is likely responding to the issues raised by retirement homes that are predominantly high-end apartments and provide very few care services. Retirement homes have to provide two care services in order to be considered retirement homes. This will narrow the definition of "retirement home," therefore we can't support this.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this motion. Provision of a meal is a critical aspect of resident health and care and as such warrants regulation as a care service, whether provided in a resident's room or in a communal part of the home. It would encompass dietary needs, for example, if diabetic, or food preparation, and ensuring food is able to be digested.

Provision of a meal would not in and of itself trigger a retirement home licensure as the definition applies where the operator of the home makes at least two listed care services available directly or indirectly to residents.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed in a non-recorded vote. Those in favour of PC motion 3? Those opposed? PC motion 3 is defeated.

NDP motion 3.1.

Mr. Paul Miller: I move that the definition of "complaints review officer" in subsection 2(1) of the bill be amended by striking out "of the authority".

This refers to an explanation back in 1.1. As we explained before in 1.1—the same reasoning for that.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: Basically, nobody disagreed that you should have a chance to have your complaint reviewed and that there should be somebody, call them an officer or another title, who will do that review. That's not where the issue lies. The issue is really that this person will only be contacted after the authority, which is dominated by the service providers, gives it the okey-doke. This is not acceptable. People should have a clear, easy-to-use, easy-to-understand complaint process. They should have an opportunity to review any copy of any report created as part of an investigation. They shouldn't have to go through an industry-dominated process in order to get there. If you want transparency, if you want accountability, you cannot go through an industry-dominated process. It makes no sense.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, this is inconsistent with the act's intent to create an arm's-length regulatory body. This regulatory body is appropriate to regulate a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, a recorded vote on NDP motion 3.1

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 3.2: Mr. Miller.

Mr. Paul Miller: I move that the definition of "fund" in subsection 2(1) of the bill be struck out and the following substituted:

"'Fund' means the retirement homes emergency fund established under subsection 27(1); ('Fonds')"

The explanation on this one is once again back to 1.1, the same reasoning for this. We hope you support it.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: This bill is not clean on its use of language. When you talk about a tenant, call it a tenant. When you talk about care, call it care. When you

use the same term to mean two different things within the same bill—I'm not a lawyer, but I know what will happen: It will bring confusion. You need to clean this bill up, and that's what this motion sets out to do.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this for the same reason: This is inconsistent with the act's intent to create an arm's-length regulatory body. The regulatory framework is appropriate to regulate a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

PC motion 4: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that the definition of “minister” in subsection 2(1) of the bill be amended by striking out “the minister responsible for seniors” and substituting “the Minister of Health and Long-Term Care”.

If we're going to provide a long-term-care-lite facility, surely to goodness it should be responsible to the same minister. By degrading the responsibility and separating the responsibility—I assume that we're talking about continuous care: An individual goes into a retirement home because they happen to be a senior and they're in relatively good health, and then they're eventually going to move to a long-term-care facility. Surely, both organizations should be under the same supervision of the minister. That minister can only be the Minister of Health and Long-Term Care, and I therefore made the motion in that regard.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: We will be supporting this amendment.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

1500

Mr. Vic Dhillon: We will not be voting for this amendment. This is already addressed in the proposed legislation. The definition of “minister” allows responsibility to be assigned or transferred to a different minister under the Executive Council Act. There was no consensus from stakeholders as to which ministry this should eventually reside in, including the Ministry of Tourism and Culture, the Ministry of Community and Social Services, the Ministry of Health and Long-Term Care and the Ministry of Consumer Services. Retirement homes are distinct from government-funded long-term-care homes, so the Ministry of Health and Long-Term Care may not be the appropriate ministry.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: One of the big issues I have pushed for for three years—since I've been here, actually—is to have regulations for retirement homes. One of the main reasons we need clarity is that we need to know where in the continuum of care a retirement home fits in. This bill does nothing to bring clarity. What it does do, though, is open the door to have a parallel process that will be for-profit, unregulated, and that has no cap on care. It could offer the same care that is in a long-term-care home, that is in complex continuing care. As long as you have the bucks to pay, this bill will allow you to buy care.

So we're moving away from a health care system that is there to give care based on need, and you are developing a parallel system that will basically have care based on ability to pay. By refusing to put it within the continuum of care, you are saying that you're okay with a parallel system for people who can afford to pay for unregulated care, no matter how much the needs are. This amendment needs to stand.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed now to the vote. Those in favour of PC motion 4? Those opposed? PC motion 4 is defeated.

We'll now proceed to NDP motion 4.1.

Mr. Paul Miller: I move that the definitions of “registrar” and “risk officer” in subsection 2(1) of the bill be amended by striking out “of the authority” wherever that expression appears.

Once again, we will refer to amendment 1.1.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: I will continue to be on record as saying that an authority that is dominated by an industry that has as poor a record as the industry that we have here in Ontario is a risk that this government cannot afford to put on to such vulnerable Ontarians. You cannot have your registrar and your risk officer directly dependent upon an industry-dominated authority. It makes no sense. It is dangerous. We owe it to the people using those services to give them better than that.

The Chair (Mr. Shafiq Qaadri): Further comments.

Mr. Vic Dhillon: Again, for the same reason, we won't be supporting this. This is inconsistent with the act's intent to create an arm's-length regulatory body. This regulatory framework is appropriate to regulating a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 4.2.

Mr. Paul Miller: I move that the definition of “resident” in subsection 2(1) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: When it walks like a duck and it quacks like a duck, it is a duck. When you go into a long-term-care home, the people there are called the residents of a long-term-care home. If you walk into a retirement home and you call them residents, you have just created confusion between two pieces of what looks like is going to be parallel but what I would hope would be a continuum of care. If you call them residents, you invite confusion with the long-term-care system. If what you’re trying to do is put forward two tiers, one for people who can afford to pay and one for people who cannot afford to pay, then go ahead and call them residents. But if you want residential retirement homes to have a spot within the continuum of care, you cannot call them residents, because that is the name that is currently utilized in Ontario to define somebody who lives in a long-term-care home. By bringing confusion, you open the door to all sorts of problems on a very critical mass of vulnerable Ontarians.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. Nothing in the Retirement Homes Act takes away from the Residential Tenancies Act. The purpose of the bill is to deal with care and safety, not tenancies, so “resident” is the appropriate terminology, not “tenant.” We have consulted with the Ministry of Municipal Affairs and Housing on this issue, and they are in agreement with this approach.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 4.2?

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

PC motion 5: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that the definition of “retirement home” in subsection 2(1) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“‘retirement home’ means a residential complex or the part of a residential complex, including a housing project operated by a local housing corporation under the Social Housing Reform Act, 2000,”

The concern has been raised by a number of individuals making representations that social housing would not be captured by the act and therefore would not be regulated pursuant to the act. That was their major concern.

I would appreciate hearing from the parliamentary assistant as to his legal interpretation or his staff’s legal

interpretation regarding the capturing of social housing within the confines of the Retirement Homes Act.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: We will be supporting this.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this, because the focus of this legislation is regulating an active and growing sector that is currently not regulated. We’re opposing this proposed amendment because we do not want to be in conflict with the regulatory regime of another act.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of PC motion 5? Those opposed? PC motion 5 is defeated.

NDP motion 6.

Mr. Paul Miller: I move that clause (b) of the definition of “retirement home” in subsection 2(1) of the bill be struck out and the following substituted:

“(b) in which at least two persons reside, and”

The reason for that is that Bill 21 leaves the number of persons to regulation, although we believe it will be set at six persons. ACE strongly believes that even retirement homes with two persons need to have the same regulations as those with six or more. It absolutely does not make any sense that you wouldn’t regulate for two people—it doesn’t matter if it’s one person—as for six. The regulations should cover all people, all vulnerable citizens, all seniors. It doesn’t matter what setting they’re in, the rules should be the same for everybody. You can’t cap it at a certain level, and the people below are out of luck and the ones above it are okay. It’s absolute nonsense.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this. After consulting seniors’ groups, the industry and our government partners, it is our intent to set the minimum number of residents at six by regulation if the legislation passes. By having this in regulation, the government would have the flexibility to change the minimum number of residents if necessary.

1510

The Chair (Mr. Shafiq Qaadri): Any further comments? Madame Gélinas.

M^{me} France Gélinas: I want everybody to remember the case of Sarah Eisemann. Sarah was in a very small, private retirement home in Orillia. She was malnourished, she had stage 4 bedsores and she had been restrained.

If you enter into a money relationship to look after vulnerable clients, there has to be some protection. This is what we were hoping for when we were asking for regulations for retirement homes. Abuse can take place if there are two people there; it doesn’t have to be a big group. There’s so little in this bill. I don’t understand why we would want to set the number at six. I want you to consider northern Ontario, where the population is aging and where there will be mainly small homes, most of them below six. That means you will have a territory

the size of France where none of those residents will have protection.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 7: Mr. Dhillon.

Mr. Vic Dhillon: I move that clause (b) of the definition of "retirement home" in subsection 2(1) of the bill be struck out and the following substituted:

"(b) that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home, and"

We're proposing this amendment because it clarifies the definition to capture retirement homes that are occupied or intended to be occupied by the prescribed number of residents. This will mean that where a home has a vacancy that results in the home having fewer than the prescribed number of residents, the home will still be captured by the definition of "retirement home."

The Chair (Mr. Shafiq Qaadri): Further comments?

All those in favour of government motion 7? Those opposed? Motion 7 is carried.

PC motion 8: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that clause (c) of the definition of "retirement home" in subsection 2(1) of the bill be struck out and the following substituted:

"(c) where the operator of the home makes available, directly or indirectly, to the residents, at least two care services in addition to meals, but not including care services provided by an external care provider,"

I've already explained that, so I won't trouble you once again.

The Chair (Mr. Shafiq Qaadri): Any comments on PC motion 8? Madame Gélinas.

M^{me} France Gélinas: It has to be clear in people's minds what is and what is not a retirement home. The way we will do this is by saying there has to be a minimum number of care elements. If meals and external care are included, then it does what the rest of this bill does: It just brings confusion and opportunity for people to use the same words but mean different things. We can't support this.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This motion would potentially remove from coverage of the bill a lot of homes that provide meals and a single care service. It is our position that homes providing this level of care should be regulated. It is not the intent to capture homes that do not make any care service available to their residents, but we are concerned that the reference to external care pro-

viders in this motion could unintentionally provide a loophole to homes to avoid being regulated by contracting out the provision of care to non-arm's-length providers, for which reasons we will not be supporting this.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 8? We'll proceed to the vote. Those in favour of PC motion 8? Those opposed? Defeated.

Government motion 9.

Mr. Vic Dhillon: I move that clause (d) of the definition of "retirement home" in subsection 2(1) of the bill be amended by striking out the portion before subclause (i) and the following substituted:

"(d) premises or parts of premises that are governed by or funded under,"

The reasoning for this is this proposed amendment clarifies the definition to ensure that where there is a mixed-use facility, only those portions of the premises that are funded or governed by the acts listed in paragraph (d) are excluded from the definition of "retirement home." This way, the parts of the premises that are not governed or funded under other statutory regimes will remain subject to the retirement homes legislation.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government—Mr. Martiniuk and then Mr. Miller.

Mr. Gerry Martiniuk: Can I have an example of that?

Mr. Alan Ernst: Alan Ernst from the Ontario Seniors' Secretariat. An example of this is set out in the legislation where we list the number of services. One example could be where there's a home that is intended to have eight or nine residents, and a few beds are funded under, for example, domiciliary hostel legislation or long-term-care home legislation, or where there's a long-term-care home on one floor and a retirement home on another.

The Chair (Mr. Shafiq Qaadri): Are there further questions you'd like to have addressed, Mr. Martiniuk?

Mr. Gerry Martiniuk: No, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Yes, I'd like further clarification. It may be a positive step; I'm not quite sure yet. We're told that ALC patients who are transferred to retirement homes occupy a part of the premises that is governed by the LTC Homes Act. Therefore, does this mean that retirement homes that accept ALC patients will not be able to be defined as a retirement home?

Mr. Alan Ernst: Sorry, could you repeat the question? I got the first half, but not the second half.

Mr. Paul Miller: We are told that the ALC patients who are transferred to retirement homes occupy a part of the premises that is governed by the LTC Homes Act. Therefore, does this mean that retirement homes that accept ALC patients will not be able to be defined as a retirement home?

Ms. Bethany Simons: My name is Bethany Simons. I'm counsel to the Ontario Seniors' Secretariat. The purpose behind the two motions to amend that have been

discussed, including the previous one, which talks about “occupied by at least the prescribed number” or “intended to be occupied,” relates to that point in that if a home is intended to be occupied by the prescribed number, but because of fluctuating populations, at some stage they fall below the prescribed level—it’s meant to address that issue.

Mr. Paul Miller: Does that include ALC patients?

Ms. Bethany Simons: Yes.

Mr. Paul Miller: It does.

Ms. Bethany Simons: Yes. They will continue be governed under the Long-Term Care Homes Act, those beds.

M^{me} France Gélinas: You just said the opposite, though—that the home will continue to be labelled a retirement home.

Ms. Bethany Simons: That’s right, but those particular beds will continue to be required to comply with long-term-care homes—

M^{me} France Gélinas: But the nomination of those beds—the home will continue to be considered a retirement home. It doesn’t matter if they happen to have all of their beds occupied by long-term-care patients, they will still be considered a retirement home.

1520

Mr. Paul Miller: Whoops.

M^{me} France Gélinas: I like your hesitation, because this bill is full of this. It could mean this or it could mean that, but we don’t really know. We are a Legislature, and we are putting forward a bill that we don’t even understand ourselves. This is going to wreak havoc in the field. You’d better come up with a very good, clear answer; this is a “yes” or a “no.”

Mr. Paul Miller: It’s pretty straightforward and you’re very foggy on your answer.

Ms. Bethany Simons: I think that the answer is yes with respect to both questions, in that, depending on the circumstances, the beds that are designated as ALC beds will remain governed under long-term-care-homes legislation and those requirements. The home itself—it’s a question of whether or not it meets the definition of “retirement home” under this legislation.

Mr. Paul Miller: If the home does not meet the definition under the act, as you’ve just pointed out, where does that leave the first part of your answer? Where does that leave those patients? If they don’t meet the criteria required under the act to govern those ALC patients, then how can you say that the ALC patients—I’m confused with that.

Ms. Bethany Simons: I’m sorry, I don’t have a further answer for you.

M^{me} France Gélinas: We’ll try that again. You have a retirement home that meets all of the criteria. It is a retirement home; it pays the money to the authority, the whole nine yards; it operates as a retirement home. All of a sudden, the hospital is in crisis. They use some of their beds for ALC patients. Patients are looked after under the Long-Term Care Homes Act, but they are within this

building. Is the home a retirement home or a long-term-care home?

Mr. Paul Miller: What’s the designation of that building?

Ms. Bethany Simons: I think that you’d have to refer to the definition of “retirement home” and see if the home fits the definition. If it does, it’s governed by the retirement homes legislation, and those beds that are designated for ALC residents would be governed by long-term-homes legislation.

The Chair (Mr. Shafiq Qaadri): If I may just intervene, the legislative counsel would like to say something.

Mr. Michael Wood: Michael Wood, legislative counsel. It appears from the answer given by the ministry counsel that the intent is that you not look specifically at the building per se, but you look at the parts of the building according to its function. So if you found out that certain beds had to be governed by the Long-Term Care Homes Act, that act would apply to those beds, and the beds which are not governed by that act would still be covered by this act, the Retirement Homes Act. Would you agree with that?

Ms. Bethany Simons: I would agree.

Mr. Paul Miller: How do you distinguish between the two? Are they going to have little signs on each bed? Are they going to have a sign over the bed, that this bed is under this requirement? How are you going to designate? Wouldn’t there be some confusion in the home as to what it falls under, if it’s not spelled out? How are you going to regulate that?

Mr. Gerry Martiniuk: Colour-code it.

Mr. Paul Miller: Colour-code it?

Mrs. Elizabeth Witmer: On the nose.

M^{me} France Gélinas: This is a prime example of why this bill is so poorly done.

I’m shopping for a home for my grandfather right now. I go into a retirement home—“Meadow Haven Retirement Home”—but half of the beds are taken up by long-term care, and I see 24-7 nurses in there. They have all sorts of personal support workers working in there, but on the front, it’s a retirement home. It’s beautiful; I can bring grandpa there. There will be a 24-hour nurse on call, there will be PSWs, there will be three hours of hands-on care for my grandfather—none of that is true. The sign on the building will say “Retirement Home.” The confusion in the community will be there. You are building a law that will bring confusion rather than bring clarity to a sector that has needed it for years.

Mr. Michael Wood: I’m, of course, going to defer to what the ministry says, but I just point out as a point of information that maybe you can address that problem with sections 54 and 55 of the act. You can make regulations there to set out what has to be included in the package of information that’s given to every resident in the home before the resident commences the tenancy. In section 55, that package is part of the material that has to be made available to the public, so you certainly could use regulations to require that the issue be addressed in the package of information.

Mr. Paul Miller: Is that in there?

Mr. Michael Wood: As I say, you'd have to use the regulations specifically—

Mr. Paul Miller: But is it in there? That suggestion you've said: Is there an amendment covering that here, or is it in the actual body of the bill? What you've just explained—

Mr. Michael Wood: Right now, that requirement, as far as I am aware—I might be wrong on this—

Mr. Paul Miller: But you may be reading into it the way you see it.

Mr. Michael Wood: I just point out that this is an avenue that the government could use to address that issue.

Mr. Paul Miller: Have they addressed it?

Mr. Michael Wood: You don't do the regulations until you first pass the act.

Mr. Paul Miller: Why wouldn't you have a good idea of what regulations you'd want in the act before you do the act?

Mr. Michael Wood: The government would have to answer that. They could—

Mr. Paul Miller: It's called "preparation."

Mr. Michael Wood: They could very well have that idea. In fact, the bill does not come into force until a date proclaimed by the Lieutenant Governor.

Mr. Paul Miller: Yes, but you want to come forward with your regulations to coincide with the bill. You don't want to add all this stuff after. Why wouldn't you do it before?

Mr. Michael Wood: I'll have to let the government answer at some point on this, but there is a government motion to require that the public be consulted before regulations are initially made under the bill when passed.

Ms. Bethany Simons: Just to be clear, this requirement of sending out what care services are being offered is to be contained in the information package that's provided to every resident before they commence residency in the home.

Mr. Paul Miller: We hope so.

M^{me} France Gélinas: I can't let that go by. You get a piece of paper that tells you what you're going to get, but you go there and you visit and you see with your eyes that there are 24-hour nurses on care—your eyes tell you something and then a piece of paper photocopied in a package of information tells you something completely different. What are you going to believe? What you saw with your own eyes.

Mr. Paul Miller: Read the fine print.

The Chair (Mr. Shafiq Qaadri): I think we have some comments from Ms. Witmer and then Mr. Martiniuk.

Mrs. Elizabeth Witmer: I certainly share the concerns of my NDP colleagues. I'm somewhat disappointed that the ministry isn't able to have responded to the question that was asked. I think it becomes more obvious every day that much of the reason for this legislation is to, in essence, stop building long-term-care beds and start putting the residents who in the past would have required long-term care into these retirement homes. I see that the retirement homes are going to have a dual function.

That's fine, but I think the government needs to be honest.

The government also needs to clearly understand what is going on, because for the public—they're going to be extremely confused if you have people within a home who are subject to two different acts. I'm greatly concerned about what's happening here because up until now, the government has never had a plan for building more long-term-care beds, and we've got 25,000 people waiting, and I'm not sure that this attempt to force them to pay for that themselves and put them into retirement homes is the answer.

It's regrettable that we're debating this bill when the government isn't in a position to offer more clarification, when a question is asked, to respond. I feel sorry for people, because if we're having trouble getting answers, I feel sorry for the family that's looking for a home for their elderly relative. Look at the mass confusion that we've just experienced here. So I would just encourage the government to find some answers to the questions they're being asked. If there aren't answers to the questions, then you'd better delay passing this piece of legislation.

The Chair (Mr. Shafiq Qaadri): We have a request for a recorded vote on this by Mr. Miller, and we have a comment by Mr. Martiniuk.

Mr. Gerry Martiniuk: Yes, I have a further question. Is it possible to have retirement home individuals located in a long-term-care facility?

The Chair (Mr. Shafiq Qaadri): A question before the committee. Those who feel empowered to answer, please do so.

Mr. Vic Dhillon: The answer to that question is no.

1530

Mr. Gerry Martiniuk: You cannot have seven individuals happen to be in a long-term-care facility, but they are not long-term care and are not subsidized by this government? Is there any reason they cannot be there?

Mr. Vic Dhillon: The answer is no.

Mr. Gerry Martiniuk: No what?

Mr. Vic Dhillon: You cannot have both in one—

Mr. Gerry Martiniuk: We just were told we can. We've got a mixed bag. We've got retirement patients and we've long-term care in the same building. That's the whole point of that motion about part of the premise. I'm sorry. I just asked the reverse. You said you can have long-term-care residents in a retirement home. You even count them as part of the retirement home. I understand that.

I've asked the reverse. If you can have that, why can't you have retirement home residents in a long-term-care facility?

Ms. Bethany Simons: I think the question is how care is regulated. As legislative counsel pointed out, the building itself is not the issue; it's the activities that take place. It may be that there is a complex that contains multiple uses. One would be licensed under long-term-care-homes legislation, and another part of the complex could be governed under the Retirement Homes Act.

Mr. Gerry Martiniuk: So you're saying they can't be in the same room?

Ms. Bethany Simons: Potentially, they could be in the same complex.

Mr. Gerry Martiniuk: In the same building but in different rooms—separate?

Ms. Bethany Simons: Yes.

Mr. Gerry Martiniuk: Yes?

Ms. Bethany Simons: Yes.

Mr. Gerry Martiniuk: So you could have a retirement home with different floors. One floor could be a long-term-care facility and the rest would be a retirement home?

Ms. Bethany Simons: That's a possibility.

Mr. Gerry Martiniuk: That's a possibility. Now, can I also have a long-term-care facility which is seven storeys high and can I have a retirement home in that building on its own separate floor?

Ms. Bethany Simons: If it meets the definition of a "retirement home," that's a possibility.

Mr. Gerry Martiniuk: That's a possibility too. So is there any reason that this government—when I first looked at this bill, it sounded like a good idea, and then I realized that this government is not building long-term-care facilities anymore in this province. All of a sudden you've just told me that not only can they not build long-term-care facilities; they're going to start throwing patients out of long-term care and making them retirement homes because that's where the bucks are today, and this government is worried about the bucks.

We have only 73,000 long-term-care residents. We have 40,000 retirement, and if this bill passes, I can see they're just going to go the opposite. That 73,000 will start to decline because the bucks are made in the retirement homes, not in the long-term-care facilities anymore. The subsidies of \$40,000 or \$43,000 a year, if I remember correctly, are paid for long-term-care patients.

I'm just concerned—it's worse than I expected. I expected that new development would be retirement homes shifting the balance. It's called privatization of our health care system. That's what it is, and now I find out that it's even worse than I expected. We're not talking about the new buildings; we're talking about the possibility of old buildings being used as retirement homes rather than long-term-care facilities.

Wow. Is that what you guys are doing? You ought to be embarrassed if that's what the scheme is, because something about this isn't right. It truly is not right.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Mr. Martiniuk is making some ridiculous suggestions. It's kind of rich for him to be talking about privatization in this way. We're talking about retirement homes. This is being taken totally out of context, and it's not acceptable. We're talking about the regulation of retirement homes, and he's bringing in all these other things that have nothing to do with this bill. It's a big waste of time.

Interjection.

Mr. Vic Dhillon: Yes, what?

Mr. Paul Miller: You've got to be kidding.

Mr. Vic Dhillon: No, you've got to be kidding.

Interjection.

The Chair (Mr. Shafiq Qaadri): I think, as the Honourable Steve Peters often suggests, we might want to keep the decorum, or at least take it outside, as the case may be.

M^{me} Gélinas, je passe la parole à vous.

M^{me} France Gélinas: I found the conversation about one wing quite interesting. Are you telling me that if you presently have a couple in a retirement home and she gets admitted into the hospital, becomes an ALC patient and is returned to the retirement home under the aging at home strategy under a long-term-care designation, she cannot go back to her unit?

Mr. Vic Dhillon: We could make up all kinds of individual situations, and I don't think it serves any purpose to be—

Mr. Gerry Martiniuk: Yes, it helps me because I can understand—

Mr. Vic Dhillon: Well, you're not helping the committee at all. I think we should be talking about what the gist of this bill is.

Mr. Gerry Martiniuk: You're just trying to cover up this mess that you presented to us.

Mr. Vic Dhillon: The mess that you guys left, absolutely. It's a little bit disturbing that you talk about privatization.

M^{me} France Gélinas: Can I have an answer to my question? I asked a legitimate question. We've established that ALC patients could be transferred into a retirement home. They would be under the Long-Term Care Homes Act and looked after under the long-term-care home requirement. Does that mean that they could not be in the same unit as their spouse, who happens to be in the same retirement home but not needing ALC, not receiving the aging at home money, not looked after under the long-term care? You said that it could be under the same roof. You've talked about wings, you've talked about floors. I want to bring it a step further. Can I have a yes or a no on this?

The Chair (Mr. Shafiq Qaadri): Before I allow the proceedings to go forward, I would just invite everyone to re-establish parliamentary language. The Chair is empowered to call security. At the very least, I'd ask you all to do a quick check of your blood pressure etc.

Now we'll move forward to—

Mr. Paul Miller: You're a doctor; you can take our blood pressure.

The Chair (Mr. Shafiq Qaadri): I could. If you want to adjourn for that, that's fine.

Are there any further comments before we proceed?

Mr. Vic Dhillon: From my end, there are no comments.

Mr. Paul Miller: Of course. We're agitating him. I have a question.

Interjection.

Mr. Paul Miller: We don't like to rush through, Vic; we like to do it properly, okay? You might be in a hurry, but we're not.

Mr. Gerry Martiniuk: Excuse me; you're complaining about time when we made no objection to you getting a full half hour. I didn't hear you say anything then, and now you're sitting there complaining about time? What kind of inconsistent—you can't suck and blow here, mister. The lady asked a question and she's not getting an answer. You want to rush on to it. Do you want us to talk here for 20 minutes each? We can do that too, you know.

Mr. Paul Miller: Anyways, getting back to my question—

The Chair (Mr. Shafiq Qaadri): Mr. Miller has the floor.

Mr. Paul Miller: Just a question. I know for a fact that my wife's parents were in a facility where one floor was a lockdown division down below for people with Alzheimer's, the next floor was for long-term care and the two top floors were for retired individuals. Completely different services required completely different procedures, and they all had different requirements. In some you had to punch out to get out because it was a lockdown facility, you had to have a pass number—whatever. They were all different. What we're trying to establish here, without trying to get angry, is, what are the rules governing these types of multi-use buildings for different levels of care for different patients? That's all my original question about ALC people was, and I did not get an answer, and then everybody got defensive. I'm just trying to clarify what they mean by this.

With all due respect, if Mr. Martiniuk's upset that we're not getting an answer, that's understandable. If you're bringing a bill forward and we're discussing this bill and we're trying to establish in committee to pass on for the next phase, then you certainly want to know and have answers for us. We did do due diligence by giving you a 25-minute extension because you weren't prepared. We were flexible. Now you're angry because we may have touched a hot button or cornered you and you haven't got an answer: very unprofessional.

1540

I think we should establish that, Mr. Chair, and get back to what you suggested, that we have some decorum and protocol here. Don't get mad if you don't have an answer; just tell us.

Mr. Vic Dhillon: It may seem to you that I'm getting mad, but that's not the case. I think we should be discussing what the bill in front of us is. We shouldn't be getting into Ministry of Health issues. This is about regulating retirement homes. I don't think that bringing up scenarios that intertwine with other ministries serves the purpose of this committee at all. Bringing up—

Mr. Paul Miller: Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Let him finish.

Mr. Vic Dhillon: I'm finished.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Mr. Miller.

Mr. Paul Miller: With all due respect, any type of legislation is intertwined. Take pension legislation: You've got the feds, who take care of the Bankruptcy and Insolvency Act, and it overlaps with Ontario. All bills have some tendency to lean toward other documentation

or other coverage. All bills are intertwined. For you to say they're not, and just single it out and not deal with any precarious situations that may crop up is absolutely having blinders on. We want to do it right the first time. You just want to do A to B, and that's it. The world doesn't function like that.

The Chair (Mr. Shafiq Qaadri): La parole est à vous, Mme Gélinas.

M^{me} France Gélinas: Merci. The reason I have asked in the House for regulation of retirement homes for the last three years is that we live in an environment where hospitals are overwhelmed with ALC patients, where more and more of them have been transferred to retirement homes where we've had a fire and four people died, where the cry for legislation is so loud out in the field. You're coming with a bill as if those homes were on the moon, as if the hospitals in Ontario do not have 25% of their beds occupied by long-term care, as if there was not extra capacity within the retirement home system that the hospitals were looking at to discharge their long-term-care and ALC patients.

To say that we're mixing it up; we are not. We're bringing you reality. Go anywhere. Come to Sudbury, go to Cornwall, go to any of your ridings and you will see retirement homes that have welcomed long-term-care patients who were ALC patients in your hospitals.

The bill doesn't clarify anything; it makes matters worse. It is not clear. It does not use language that clarifies; it uses language that muddies the water. It makes it worse. In French we call this “de la bouillie pour les chats.” This is what this bill does, and it's not helpful.

The Chair (M. Shafiq Qaadri): Merci, Mme Gélinas. M. Lalonde?

Mr. Jean-Marc Lalonde: This bill is definitely just to regulate retirement homes. At the present time, we don't have anything for retirement homes. I happen to have about 36 of them in my riding. Let me tell you that what my friend Mr. Miller was saying—yes, if you have three floors, you could have three floors with different qualifications or requirements. But on the floor you have for long-term care, you've got to have full-time nurses on staff. I don't see anybody having six long-term-care beds being able to meet the bills at the end of the month. At the present time, we have nursing homes, which are long-term-care homes that have a few extra beds. You can have people in the hospital who are transferred there. They call them “lits de répit”—I don't know the name is in English—

Ms. Helena Jaczek: Respite.

Mr. Jean-Marc Lalonde: Respite—and they don't get the same amount of money they would get if it was long-term care. Really, only a CCAC could tell you, when you have to move out of the hospital, that you are a patient for long-term care and not for a retirement home. This way, they've got to find a place. We know what happened in Ottawa. The hospital sent someone to a retirement home, and we know what happened. It's really either the hospital or the operator of the retirement home who should be blamed for that. Definitely, we have

regulations at the present time for long-term care, but we don't have any for retirement homes.

The Chair (Mr. Shafiq Qaadri): Merci pour vos remarques, monsieur Lalonde. Are there any further comments or questions before we proceed to the recorded vote? Going once? No.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Martiniuk, Paul Miller.

The Chair (Mr. Shafiq Qaadri): Government motion 9 carries.

Shall section 2, as amended, carry? Carried.

If there are no objections, we'll do a block vote—since we've received, I think, no amendments to date—for sections 3 to 8. Shall they carry ensemble? Carried.

We'll proceed now to section 9. NDP motion 9.1: Mr. Miller.

Mr. Paul Miller: The NDP would submit and recommend that we're voting against sections 9 to 19.

The Chair (Mr. Shafiq Qaadri): Thank you. Is there any further debate, comments or questions with reference to this NDP notice? Fine. Shall section 9 carry? Oh, Madame Gélinas.

M^{me} France Gélinas: This creation of an arm's-length authority could work, I suppose, if you have to, but not in its present form, with industry domination. Forget it. You are putting people at risk. This is not like if you buy a trip and we say that all of the travel agencies are regulating themselves. This is a one-time purchase. If you've done wrong, we will give you a pile of money and things will go away. This is not the case in a retirement home. This is their home. There's no amount of money that could fix some of the wrong that can be done to those vulnerable people. You cannot have self-regulation of that industry. It is not acceptable. It is bringing the fox into the hen-house. It is dangerous, and it has to be taken away.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, shall section 9 carry? Carried.

Interjection.

The Chair (Mr. Shafiq Qaadri): I'm sorry. Okay, a recorded vote on section—

Mr. Gerry Martiniuk: Sections 9 to 19.

The Chair (Mr. Shafiq Qaadri): Fair enough.

Interjection.

The Chair (Mr. Shafiq Qaadri): I understand that we're going to be considering it a little bit individually because there are many motions, for example, with reference to section 12.

Let's proceed with section 9. Shall section 9 carry? Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Section 9 carries.

Block consideration, if the committee will allow it, of sections 10 and 11: again, a recorded vote. Those in favour of sections 10 and 11?

Interjection.

The Chair (Mr. Shafiq Qaadri): Any debate or comments? Okay, to the vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Sections 10 and 11 carried.

We now have individual amendments coming forward for section 12. NDP motion 10: Mr. Miller.

Mr. Paul Miller: I move that subsections 12(4) and (5) of the bill be struck out and the following substituted:

"Appointment of directors

"(4) The Lieutenant Governor in Council shall appoint each of the directors to the board for a term of two years.

"Limit on re-appointment

"(5) A director shall not be appointed to the board for more than three successive terms."

The reason for this is that we're assuming the government will vote against our motion to eliminate regulatory authority, so we are looking for ways to bring more transparency to the regulatory authority board. Without this motion, the act is silent on the length of terms and the numbers of terms that directors can serve. Basically, with a regulatory authority that may be dominated by industry people, they could set up quite a little monopoly there over a period of time with no set terms and no way of challenging them on their terms. So we're very concerned about a monopoly by the industry of their people on this regulatory authority, so we'd like to see some limitations.

1550

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. The Lieutenant Governor in Council does not appoint a majority in this model.

In the initial start-up of the regulatory authority it is important to have flexibility in terms of the length of terms of directors and the number of terms a director may serve. The availability of board expertise will be an important factor in determining the terms of appointees.

The government has heard and responded to concerns about industry dominance on the board by proposing to

add new provisions requiring the board to make a bylaw, subject to the minister's approval, as to who can serve as a director, and authorizing the minister to make rules as to who can serve as a director.

These provisions, combined with the existing accountability features in the bill, will ensure that the board does not become dominated by any sector, including long-standing industry representatives.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: I'm confused by your statement. You're saying that they can regulate and govern in certain instances, but as far as the length of time that a governor can stand or be in office—you can limit some things, according to your statement, but this one you're not touching. I'm a little confused. Why wouldn't that fall under the same regulatory system that you're setting out for this particular authority? Why is it only good for some things and not others? I'm confused. Maybe you can help me out.

Mr. Vic Dhillon: Chair, I'm going to ask someone from the ministry to respond to that.

Mr. Michael Dougherty: Hi, I'm Mike Dougherty, from the ministry. Sorry, could you just repeat your question, Mr. Miller?

Mr. Paul Miller: Yes.

The Chair (Mr. Shafiq Qaadri): Sorry, could you just identify yourself again, a little louder?

Mr. Michael Dougherty: I'm Mike Dougherty, from the Ontario Seniors' Secretariat.

Mr. Paul Miller: The parliamentary assistant stated that there would be some regulation that would be set forth from the ministry over the authority, for their criteria to function and to run. Our amendment is also to allow the minister or ministry to set the length of time that that individual can spend as a governor.

He's saying they're an arm's-length authority, yet he just stated that the ministry would give out certain types of regulations. Why would they cut it off and not include the period or length of time that you serve on the board or authority? You know what I'm saying? If you can set out rules for certain things, why can't you set out rules for that? It seems to have been left out.

Mr. Michael Dougherty: Actually, there's going to be a government motion in about three or four that does address it. We've added the length of term and whether they can be re-elected.

Mr. Paul Miller: Well, I stand corrected. We haven't got to that yet.

Mr. Michael Dougherty: No, we haven't.

Mr. Paul Miller: Thank you, Mike.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the recorded vote on NDP motion 10.

Nays

Dhillon, Jacek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

PC motion 11: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 12(5) of the bill be amended by striking out "do not".

What this does is ensure that a majority of the board would be, in fact, appointees of the government at that time.

This organization is not an organization of professionals such as physicians, teachers or lawyers, where the majority in those situations are in fact professionals. This is an amalgamation of businesses, or a group of businesses, that do not fit within that category, and I think it's only fair that the public have a majority on the board of directors in governing the actions of this authority.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: Thanks, Mr. Martiniuk. I'd just like to ask you a question on this. It seems that Bill 21 stipulates that the majority of directors are not appointed by the LGIC. This reverses that. Is that what you're doing here? Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This proposed amendment would turn the arm's-length regulatory authority into a government agency.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 11? Those opposed? PC motion 11 is defeated.

NDP motion 11.1.

Mr. Paul Miller: I move that subsection 12(6) of the bill be amended by adding "and shall include at least one person who represents,

"(a) seniors who are residents of a retirement home;

"(b) unions representing staff who provide direct care to residents of a retirement home;

"(c) advocacy organizations for seniors; or

"(d) a member of a college of a health profession set out in schedule 1 to the Regulated Health Professions Act, 1991."

All of these groups, other than consumers, were not previously included. This will ensure broader representation and expertise in their individual fields. We feel that this is a win-win for any type of bill.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. A competency-based board would ensure that members have the appropriate skills, experience and knowledge to provide effective, responsible governance. A competency-based approach for board selection is also the recommended best practice for contemporary board governance.

Ayes

Paul Miller.

The government has heard concerns about the need for representation on the board from seniors, unions, advocates and health professionals on the board and has responded by adding new provisions requiring the board to make a bylaw, subject to the minister's approval, as to who can serve as a director and authorizing the minister to make rules as to who can serve as a director. These provisions, combined with the existing accountability features in the bill, will ensure that the board does not become dominated by any particular part of the sector.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: The minister says he doesn't want anyone to be dominated on the board. Why are there five representatives from the industry and four others? Is that not domination? Does that not have a majority? It's almost like sitting on committee five to three. What's the answer to that?

Mr. Alan Ernst: We should note, with respect to the five appointees who aren't appointed by the LGIC, that the intent is that these appointments are to be based on competencies consistent with contemporary governance. There is certainly nothing in here that says that they would be industry appointees. It would be based on a range of competencies. The legislation enables the minister to set qualifications by order. Those provisions should enable those five board members to be based on that range of competencies which could, in theory, range from knowledge of the seniors' community to governance, administration and so on. Again, qualifications could be set out in the future, but the intent is that this is a competency-based board. There's nothing here that says it would be an industry-based board.

Mr. Paul Miller: Well, there's nothing that says it isn't, either. You can get five members on that board who may be very competent but they could be from the industry, and if the minister decided to appoint them for whatever reason, and they are leaders in their industry, it could be for-profit leaders in their industry who could be sitting there—that's within reason; that could happen—based on their competencies, based on their knowledge, based on their experience. All those could come into play also, but it could go that way, couldn't it? And the other four members—listen, all I know is, I'm from Missouri; if you've got five people from one area and you've got four others and you vote, you could lose every one. Is that not a fair statement?

1600

Mr. Alan Ernst: I should note that there are a number of accountability features that we'll be getting to as we go through the rest of this bill dealing with MOU, the minister's ability to set policy directions, the authority to appoint an administrator when it's in the public interest to do so. There are a number of features in the act.

Mr. Paul Miller: I sat here the other day and heard them in presentations, and it was my understanding that the deputy minister and the minister said they could overrule any decisions on board appointees. If someone came forth and they decided, for whatever reason—whether it's industry-dominated or whatever—they sat

here and told me that the deputy minister and the minister could overrule. So if they wanted to play into the hands of private industry, they could. Is that a fair statement?

Ms. Bethany Simons: I might just add, in terms of upcoming government motions, that there are two that deal with the issue of who may serve on the board, and there is a proposed motion to amend with respect to section 12, which deals with the minister's order-making power; that the minister may order, with respect to the rules, who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected.

Mr. Paul Miller: So the answer to my question is: Yes, the minister can overrule?

Ms. Bethany Simons: The minister has the power and the ability to make an order. There is also another proposed motion to amend with respect to bylaws of the authority, requiring the authority to make bylaws in the areas that I've just touched upon, and those bylaws must be approved by the minister. So it allows oversight of the government.

Mr. Paul Miller: So the minister can overrule the bylaws; he can overrule the personnel involved in this authority. It sounds like the minister can do just about anything he wants, from what I can read.

Ayes

Paul Miller.

Nays

Dhillon, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
PC motion 12: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 12(6) of the bill be struck out and the following substituted:

"Representation

"(6) The directors appointed by the Lieutenant Governor in Council shall consist of consumers or representatives of consumers."

I think that's self-explanatory.

Mr. Paul Miller: Recorded vote, please.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 12 defeated.

NDP motion 13: Mr. Miller.

Mr. Paul Miller: I move that subsection 12(7) of the bill be struck out.

We're removing the right of directors to elect new board members because of fears that it will allow the board to soon become only a representative of industry. It appears that our amendments are moving in that direction. I'll reiterate what I had just asked before: my concerns about a dominated representation of industry, and it appears in the amendments that we're moving in that direction. We want an explanation, and the one I got was what I thought, so this is basically down the same lines.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This proposed amendment would turn the arm's-length regulatory authority into a government agency.

The Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 14.

Mr. Vic Dhillon: I move that section 12 of the bill be amended by adding the following subsection:

"Representation, etc.

"(8.1) The minister may, by order, establish rules regarding who can serve as directors elected to the board, the criteria for their nomination"—

Mr. Gerry Martiniuk: It's 13.

Mr. Vic Dhillon: No, 14.

The Chair (Mr. Shafiq Qaadri): Actually, technically we're on 14R so—

Mr. Vic Dhillon: Are we on the same—

The Chair (Mr. Shafiq Qaadri): I'm on 14R.

Mr. Vic Dhillon: Yeah, that's the one. Should I start?

Mr. Paul Miller: You've gone to 14R. There's 14, and you're amending 14R for 14?

The Clerk of the Committee (Mr. Katch Koch): We have two motions: 14 is the original motion filed; 14R is the replacement motion. So it's up to Mr. Dhillon to move whichever one he wants to move.

Mr. Paul Miller: Which one are we doing?

Mr. Vic Dhillon: I'll start all over again, Chair.

I move that section 12 of the bill be amended by adding the following subsection:

"Representation, etc.

"(8.1) The minister may, by order, establish rules regarding who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected; an order made under this subsection prevails over a bylaw made under subsection 14(1.1) in the case of conflict."

The explanation for this is that we heard concerns that the board could be dominated by directors from a particular sector. Transparency, accountability and appropriate government oversight of the authority are important provisions in this act. If the minister is dissatisfied with the board's bylaw development process outlined in the proposed amendment to section 14(1.1), this proposed amendment would give the minister the power to establish rules regarding who can serve as directors elected to the board, the criteria for the nomination and the process for the election of directors.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Paul Miller: Well, we think it's moving in the right direction and we'd like to support this, but I'm a little concerned about the wording "the minister may." Why doesn't it say, "the minister will"? I mean, is it that he doesn't want to, or he's going to do it some day down the road, or until somebody complains? Why would you use the word "may"? "The minister may"—that doesn't do anything. I think that's a real problem. This is a waste of paper if it just says "may." I'm looking for an answer. Why would you use the word "may"? This means nothing; it's not worth the paper it's written on. Is he going—"shall" or "will"?

Mr. Michael Dougherty: This is tied into 14(1.1), so—

Mr. Paul Miller: I'm aware, but both of them are the same.

Mr. Michael Dougherty: The way it's set up is, if the minister is not happy with the board, the minister must review the board's bylaws—

Mr. Paul Miller: Where does it say "must"?

Mr. Michael Dougherty: In 14(1.1); it's about three motions down the road here. It's just the way that the bill was set up. We had to do this one first, but logically it should be that the board will do the bylaw and the minister must review it; if the minister is not happy, then the minister may—

Mr. Paul Miller: Can I ask you a question?

Mr. Michael Dougherty: Sure.

Mr. Paul Miller: Why don't you just withdraw these and go with the one that's further down the road? This one is dead in the water as soon as you use the word "may."

1610

Mr. Michael Dougherty: It's "may" only because he has "must" for the other piece. This is just the safety valve that he has. If he's not happy with—

Mr. Paul Miller: This is an out. It's not a safety valve. The word "may" is not the proper word.

Mr. Michael Dougherty: Well, it is in this case because if he's happy with the bylaw, he doesn't have to do an order. Whereas if he's not happy with the bylaw, he is going to do—

Mr. Paul Miller: It all depends on what he had for breakfast, whether he's happy or not? What is that?

Mr. Michael Dougherty: It's a safety component.

Mr. Paul Miller: That's worse than going to court.

Interjection.

Mr. Paul Miller: No, the word “may” is useless.

Mr. Michael Dougherty: It indicates that the minister doesn’t have to if he is happy with the bylaw that the board has developed in the same area. This is just as an extra—

Mr. Paul Miller: I can’t support that.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of—

Mr. Paul Miller: Could I have a recorded vote, please?

The Chair (Mr. Shafiq Qaadri): A recorded vote on government motion 14R.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Defeated.

Mr. Vic Dhillon: Is that defeated or—

The Chair (Mr. Shafiq Qaadri): Carried. Government motion 15.

Mr. Vic Dhillon: Chair, I suggest you get a coffee.

The Chair (Mr. Shafiq Qaadri): I’ve got two and they don’t seem to be working, Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 12(9) of the bill be amended by striking out “(3) or (8)” wherever that expression appears and substituting in each case “(3), (8) or (8.1)”.

The justification for this is that subsection 12(9) provides that a minister’s order must be made readily available to the public on and after the date it is made, and that the orders must remain readily available to the public. This proposed amendment is technical and reflects the proposed amendment to add subsection 12(8.1), which is the power of the minister to make and order establishing rules regarding election of directors.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 15? Those in favour of government motion 15? Those opposed? Motion 15 carries.

Shall section 12, as amended, carry? Carried.

Shall section 13 carry? Carried.

NDP motion 16: Mr. Miller.

Mr. Paul Miller: I move that subsection 14(1) of the bill be amended by adding “After consulting with the public in the manner that the board determines” at the beginning.

Basically, this obligates the board to consult with the public when they are determining the bylaws for the authority.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: We will not be supporting this. Governance structure is created to allow deregulatory authority flexibility in operational decisions. Accountability for bylaws will be built into the memorandum of understanding between the minister and the board. There

is nothing preventing the authority from consulting publicly on its bylaws as an arm’s-length body. This type of governance decision is most appropriately left to the authority itself.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: This is a section of activity that needed regulation. You acknowledged this because you brought forward that bill. Part of the reason why we want this is so that we have clear accountability and we have more transparency and we know what we’re talking about. One of the ways to do this is to make sure that the board has to invite public consultation.

Right now, basically the board is permitted to make bylaws respecting the management and administration of the authority and 30 days after drafting the bylaws they must make them available for public inspection. We’re not that far apart. We’re saying do your consultation upfront so you make sure that the public has a chance to be heard. This is basic transparency principles. Why wait until after it’s done and have them react? They will have a chance to look at them. Give them a chance to be involved upfront. That’s all we’re asking for, and it goes with good transparency principles.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 16? Seeing none, to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 17R.

Mr. Vic Dhillon: Thank you, Chair. I move that section 14 be amended by adding the following subsections:

“Same, elected directors

“(1.1) The board shall make a bylaw regarding who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected.

“Minister’s approval required

“(1.2) The board may make a bylaw described in subsection (1.1) only with the approval in writing of the minister.”

The justification for this is that we heard concerns that the board would be dominated by the directors from a particular sector. Transparency, accountability and appropriate government oversight of the authority are important provisions in this act. This proposed amendment requires the board to make a bylaw regarding who can serve as an elected director, the criteria for their nomination and the process for their election. In order to ensure accountability and the appropriate level of government oversight, this bylaw must be approved by the minister.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chairman. This makes the board even more unaccountable. This is a terrible amendment that will allow the board to set the criteria and process of nomination for new directors of the board. This seems to be a step backwards in accountability. The fact that the minister must approve these is little consolation. I really, really think this is a terrible amendment.

The Chair (Mr. Shafiq Qaadri): Those in favour of the government motion?

Mr. Paul Miller: Can I have a recorded vote, please?

The Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): The motion carries. Shall section 14, as amended, carry? Carried.

Shall sections 15 to 19, inclusive, carry? Carried.

Section 20: NDP motion 17.1: Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chairman. I move that section 21 of the bill be struck out and the following substituted:

“Fees

“21(1) The minister may, by order, set and charge a fee in relation to anything that the minister does in administering this act and the regulations or anything that the registrar does under this act and the regulations.

“Legislation Act, 2006, part III”—

The Chair (Mr. Shafiq Qaadri): Mr. Miller, I’d invite you to read NDP motion 17.1.

Mr. Paul Miller: Motion 17.2?

M^{me} France Gélinas: Motion 17.1.

Mr. Paul Miller: Okay—here. I’m sorry. We’ll get back to it. It’s the little one here.

I move that section 20 of the bill be struck out and the following substituted:

“Forms

“20. In connection with administering this act and the regulations, the minister may require the use of forms that the minister develops.”

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Seeing none, we’ll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 20 carry? Carried.

Section 21. NDP motion 17.2: Mr. Miller.

Mr. Paul Miller: Thank you. Okay, here we go.

I move that section 21 of the bill be struck out and the following substituted:

“Fees

“21(1) The minister may, by order, set and charge a fee in relation to anything that the minister does in administering this act and the regulations or anything that the registrar does under this act and the regulations.

“Legislation Act, 2006, part III

“(2) Part III (Regulations) of the Legislation Act, 2006 does not apply to an order made by the minister under subsection (1).

“Amount

“(3) A fee under subsection (1) may be set by specifying its amount or by specifying the method of determining its amount.

“Collection

“(4) The minister may,

“(a) set the time and manner of payment of each fee charged under subsection (1); and

“(b) require the payment of interest and other penalties, including payment of collection costs, when a fee charged under subsection (1) is unpaid or is paid after the due date.”

This is amending the collection fees section so responsibility lies with the minister rather than the regulatory authority.

1620

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. This is inconsistent with the act’s intent to create an arm’s-length regulatory body. The regulatory framework is appropriate to regulate a sector the government doesn’t fund. The bill already provides the minister would have the authority to approve the processes and criteria by which the authority charges and sets fees.

M^{me} France Gélinas: How does the minister have this authority?

Mr. Vic Dhillon: I believe it’s in section 21.

Ms. Bethany Simons: Section 21 of the bill provides that “the authority may set and charge a fee in relation to anything that the authority does in administering this act and the regulations or anything that the registrar does under this act and the regulations, if the decision to charge the fee is made, and the fee is set, in accordance with processes and criteria that the authority establishes and that the minister approves.”

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: I would say his explanation was a little bit off.

The Chair (Mr. Shafiq Qaadri): Legislative counsel?

Mr. Michael Wood: I agree with the ministry explanation, but to make it a little clearer, focus on the last three or four words of subsection 21(1). The minister has to approve the processes and criteria that are used when the authority sets the fees.

M^{me} France Gélinas: Yes, but that doesn't mean the minister will approve the charging of interest or going after fees that are unpaid.

Let's say this thing turns out like we think it will turn out, where it will be a bunch of industry leaders who will set their own bylaws, who will enforce them when they feel like it, to the people they feel like. The ministry won't have any recourse. If somebody is found in contravention of the bylaws, but this authority decides not to go and collect—the ministry might have approval of the bylaws all they want, but it still won't be collected.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the recorded vote. Those in favour of NDP motion 17.2?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated. NDP motion 17.3.

Mr. Paul Miller: I move that section 21 of the bill be amended by adding the following subsection:

"Exception

"(2) The authority shall not set or charge a fee payable by a person for making a complaint described in subsection 83(1) to the registrar."

It specifies that the authority cannot charge a fee for lodging a complaint about an alleged contravention of the act. That's what this is all about.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: We will be supporting this motion, so be nice.

Mr. Paul Miller: I need water. Did I hear that? It's hot in here. Thank you.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 17.3—recorded.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Wait. Legislative counsel?

Mr. Michael Wood: I appreciate that the committee has just passed this motion but—

The Chair (Mr. Shafiq Qaadri): Actually, they haven't. I haven't officially acknowledged it. Go ahead.

Mr. Michael Wood: I have to have a minute to consider the numbering problem, because we already have a subsection 21(2) here, I realize. I think perhaps this subsection should be renumbered as 1.1, because the intention is not, as I gather, to strike out the existing subsection 21(2).

The Chair (Mr. Shafiq Qaadri): Is that both suitable and comprehensible?

Interjection.

Mr. Michael Wood: No, it cannot be done editorially. The committee has to be voting on it as a new subsection, 1.1.

The Chair (Mr. Shafiq Qaadri): All right. Katch, would you like to summarize what's going on, please?

Mr. Paul Miller: What's the title, 21(1)?

Mr. Michael Wood: What is in brackets will be 1.1 instead of 2.

The Clerk of the Committee (Mr. Katch Koch): It's 1.1 instead of 2.

The Chair (Mr. Shafiq Qaadri): All those in favour of this particular amendment, as amended? Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Carried.

Shall section 21, as amended, carry? Carried.

Section 22: NDP motion 17.4.

Mr. Paul Miller: Could we put in notice that we'll be voting against section 22?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Shall section 22 carry? Recorded vote, I presume?

Mr. Paul Miller: Yes, please.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Section 22 is carried.

Section 23. NDP motion 17.5: Mr. Miller.

Mr. Paul Miller: I move that subsection 23(1) of the bill be struck out and the following substituted:

"Registrar

"23(1) The minister shall appoint a registrar who shall perform the duties assigned to the registrar under this act and by the minister."

This one, we believe, makes the minister responsible for appointing the registrar, instead of the board. I think it's basically a housekeeping situation.

Maybe I can get two for two.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this.

Mr. Paul Miller: Ah.

Mr. Vic Dhillon: We'll see how you behave.

The arm's-length regulatory model that has been created is appropriate to regulate a sector the government

doesn't fund. The proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Recorded vote on NDP motion 17.5.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 23 carry? Carried.

Section 24: NDP motion 17.6.

Mr. Paul Miller: I move that subsections 24(1) and (2) of the bill be struck out and the following substituted:

"Risk officer

"24(1) The minister shall appoint a risk officer."

The minister, not the board, should appoint this risk officer.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: The fact is that we feel it would be better for the minister because of the fear, once again, of a board dominated by the industry and assigning the risk officer. He may be favourable to their decisions, and we're very concerned about that. We'd like to see an open and accountable process. We'd like to see the minister appoint the risk officer from arm's length.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we'll be voting against this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund.

This proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of government.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Acting Chair (Mr. Khalil Ramal): I declare the motion lost. Sorry.

NDP motion 17.7.

1630

Mr. Paul Miller: I move that subsection 24(3) of the bill be amended by striking out "authority" wherever that

expression appears and substituting in each case "minister".

It's the same situation. It strikes out "authority" and replaces it with "minister" wherever it appears in this section.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Mr. Dhillon.

Mr. Vic Dhillon: We will not be in support of this, again for the same reason. The arm's-length regulatory model that has been created is appropriate to regulate the sector that the government doesn't fund. This proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of government.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Acting Chair (Mr. Khalil Ramal): I declare NDP motion 17.7 lost.

Motion 17.8: NDP.

Mr. Paul Miller: I move that subsections 24(4) to (9) of the bill be struck out and the following substituted:

"Required reports

"(4) The risk officer shall,

"(a) prepare and give the minister an annual report about the minister's activities and proposed activities mentioned in subsection (3);

"(b) prepare and give the minister the other reports that the minister requests.

"Optional reports

"(5) The risk officer may prepare and give the minister a report on any matter related to the minister's activities or proposed activities mentioned in subsection (3), at the times that the officer considers it in the public interest to do so.

"Access to records and information

"(6) When the risk officer performs a duty under subsection (3) or prepares a report under subsection (4) or (5), the minister shall give the officer access to all records and other information that the officer believes to be necessary in order to perform that duty or prepare that report.

"Minister to review and disclose other reports

"(7) Within one year after receiving a report"—what's wrong?

Mr. Michael Wood: There is a replacement motion for 17.8, which I believe you would prefer to move, which is "within three months."

Mr. Paul Miller: Do you want me to read 17.8R then?

Mr. Michael Wood: Yes.

Mr. Paul Miller: I move that subsections 24(4) to (9) of the bill be struck out and the following substituted:

“Required reports

“(4) The risk officer shall,

“(a) prepare and give the minister an annual report about the minister’s activities and proposed activities mentioned in subsection (3);

“(b) prepare and give the minister the other reports that the minister requests.

“Optional reports

“(5) The risk officer may prepare and give the minister a report on any matter related to the minister’s activities or proposed activities mentioned in subsection (3), at the times that the officer considers it in the public interest to do so.

“Access to records and information

“(6) When the risk officer performs a duty under subsection (3) or prepares a report under subsection (4) or (5), the minister shall give the officer access to all records and other information that the officer believes to be necessary in order to perform that duty or prepare that report.

“Minister to review and disclose other reports

“(7) Within three months after receiving a report prepared by the risk officer under subsection (4) or (5), the minister shall review the report and make it available for public inspection.”

This is a series of reforms that change the reference from “the board” to “the minister” as per other motions, as well as to change the amount of time that reports must be released to the public. It’s simply another level of accountability, and government certainly wants to be accountable to the public, and I think this just strengthens the risk officer’s position to be able to do his due diligence and also not to get up against red tape or bogged down at the ministry level when he requires information to do his report.

I don’t know why anyone would be against this. It’s simply more accountability. The government certainly is touting more accountability, so I would think that you would support this and allow the risk officer to do his job without any interference from the ministry or the board. It’s a no-brainer.

The Chair (Mr. Shafiq Qaadri): Madame G  linas and then Mr. Dhillon.

M^{me} France G  linas: We are especially concerned about the fact that the risk officer may prepare reports, as requested by the minister or on his or her own initiative, if it is in the public’s interest to do so, regarding the effectiveness of the authority’s administration of the act.

So the way the bill reads right now, these types of reports must be reviewed by the minister and the board, and made available to the public within one year of receipt.

What we’re asking is that if it is of public interest, which is the criteria the risk officer must meet before he or she puts out those reports, why is it that he or she is preparing a report in the public’s interest but we won’t make it available to the public for 12 months? That is not

reasonable. We don’t have any problem with the minister and the board reviewing it. But if it has been generated because of public interest, make it available to the public within three months, maximum.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We’ll be voting against this because this amendment would reflect a change we do not support, changing the authority from being an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Madame G  linas?

M^{me} France G  linas: That answer makes no sense whatsoever. We are not changing it to be part of the ministry. We’re telling you that we are looking at a risk officer who needs to report back to the public within three months.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: This risk officer is to be able to move freely between the ministry and the board without encumbrances. That’s what this amendment allows the risk officer to do. What you’re doing is encumbering his ability to go after proper documentation from the ministry to complete his report. You call it arm’s length. This is exactly what he would be: arm’s length from either one of them and able to function as a separate entity. Why would you not support that? I don’t understand that.

Mr. Vic Dhillon: We support the intent, and we have a further government motion coming up to address this.

Mr. Paul Miller: To correct it?

Mr. Vic Dhillon: To address this.

Mr. Paul Miller: Okay. I’ll be waiting with bated breath.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 17.8R? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 18.

Mr. Paul Miller: I move that subsections 24(8) and (9) of the bill be amended by striking out “one year” wherever that expression appears and substituting in each case “three months”.

It obligates that reports that are given to the ministry be released to the public within three months instead of one year. A lot of things can happen in one year, and a lot of dust can collect on a report in one year. We’re figuring that three months after a complaint is dealt with, the public is going to be upset about the fact that they can’t get it quicker.

At the best of times, governments are bogged down and the government machine is very slow, so it would

certainly improve consumer confidence in the government if we sped up this process.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Again, we support the intention of this motion—I will introduce an amendment to reduce the period to six months—but we will be voting against this.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 18? Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Continuing with section 24, government motion 18.0.1.

1640

Mr. Vic Dhillon: I move that subsections 24(8) and (9) of the bill be amended by striking out “one year” wherever that expression appears and substituting in each case “six months”.

We’re reducing the period to six months. This policy decision can be reviewed during the five-year review of the act under section 120(1).

Mr. Paul Miller: Recorded vote, please.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Carried.

Shall section 24, as amended, carry? Carried.

Section 25: NDP motion 18.1.

Mr. Paul Miller: I move that section 25 of the bill be struck out and the following substituted:

“Complaints review officer

“25. The minister shall appoint a complaints review officer.”

Once again, the minister instead of the board shall appoint a complaints review officer. We think that that’s a good move that the minister appoint one. That way, it’s not an industry-dominated appointment, the minister can work at arm’s length and appoint a review officer who can report to him immediately as well as to the board and give him the ability to move back and forth between the two bodies.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm’s-length regulatory model that has been created is appropriate to regulate a sector the government doesn’t fund. This proposed amendment would reflect a change that we do not support, changing the authority from being

an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 25 carry? Carried.

Section 26: NDP motion 18.2.

Mr. Paul Miller: I move that section 26 of the bill—

Mr. Michael Wood: Wait a minute. Mr. Miller, do you intend to move motion 18.2R, which is intended to be a replacement for 18.2? There’s a slight difference between them.

Mr. Paul Miller: Thank you. Sorry. It’s always one page behind, there. I’ve got to put the Rs on top.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, you have the floor for 18.2R.

Mr. Paul Miller: I move that section 26 of the bill be struck out and the following substituted:

“Code of ethics

“26. The minister,

“(a) shall establish a code of ethics that includes rules respecting conflicts of interest, political activity and disclosure of wrongdoing;

“(b) shall ensure that the code of ethics is complied with by every inspector and every other person employed, retained or appointed by the minister; and

“(c) shall ensure that the code of ethics is available for public inspection.”

I think this basically speaks for itself. We certainly want to move in the direction of accountability, as the government states on a regular basis. This tightens up - things and would allow the inspectors to follow a code. If they get themselves in a bit of trouble or heat and didn’t follow the code, then the minister has an ability to take what disciplinary action he feels is required in that particular incident. If you don’t do that, it leaves too much leeway for people who are serving in this particular situation with no guidelines. We think that that’s wrong.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We won’t be supporting this as this amendment would not reflect a change. We do not support changing the authority from being an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Paul Miller: I’m a little confused because a code of ethics—doctors have codes of ethics, lawyers have codes of ethics. Why wouldn’t you want this body to have a code of ethics and report to the ministry so the

minister is able to act on the act and the code? It doesn't make sense that you are allowing them to float around in purgatory.

Mr. Vic Dhillon: If you look in the act itself, the code of ethics is in the act.

Mr. Paul Miller: Governed by the authority.

Mr. Vic Dhillon: Yes, the authority.

Mr. Paul Miller: Okay, once again, I'm trying to establish the fact that a potentially industry-dominated board has their own code of ethics. That's like the fox guarding the chicken house. Do you agree?

Mr. Vic Dhillon: It's within the minister's realm. The minister has to approve the code of ethics.

Mr. Paul Miller: Then why would you have any problem with the inspectors or the other people having that code? If he approves it, is it going to fall under his auspices or the governing body of the authority? Who's going to have the last say on the code of ethics?

Mr. Vic Dhillon: The minister would, I'm told. The minister would have the final say.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, recorded vote on NDP motion 18.2R.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 26 carry? Carried.

NDP motion 18.3 in the next section: Mr. Miller.

Mr. Paul Miller: I move that section 27 of the bill be struck out and the following substituted:

"Emergency fund

"27(1) A fund is established under the name retirement homes emergency fund in English and fonds d'urgence des maisons de retraite in French."

How did I do? Not bad?

M^{me} France Gélinas: Terrible.

Mr. Paul Miller: Thank you.

"Same

"(2) The minister shall make payments into the fund, hold the property of the fund in trust, make payments out of the fund, require repayment to the fund and otherwise administer and manage the fund in accordance with the regulations."

Basically, it makes the minister responsible for the emergency fund.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much, Mr. Miller. The government is not going to support this motion because it doesn't reflect our mission. Here we're regulating entities not funded by the government, so there would be a conflict.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none—legislative counsel.

Mr. Michael Wood: I just have to point out to the committee that if this motion passes, to be consistent we have to go back and make a small housekeeping change to the definitions in subsection 2(1) of the bill, where "fund" is defined right now as "'fund' means the retirement homes regulatory authority emergency fund established under subsection 27(1)." If this motion on section 27 passes, we will have to amend the definition of "fund" in subsection 2(1) of the bill to be consistent with that new name, to say "'fund' means the retirement homes emergency fund"—in other words, drop the two words "regulatory authority."

The Chair (Mr. Shafiq Qaadri): Thank you, legislative counsel. If the motion passes, we will do so. Recorded vote, NDP motion 18.3.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 18.3 defeated; legislative counsel concern nullified.

Mr. Michael Wood: No, it's not nullified. It's defeated?

Interjection: Yes.

Mr. Michael Wood: I thought you carried it. Okay, then it's fine. Thank you. Sorry.

Interjections.

The Chair (Mr. Shafiq Qaadri): I once again advise all members who are attending this committee to do a quick self-blood-pressure check. We will now move forward.

Mr. Paul Miller: Mr. Chairman, I have another notice: "The NDP recommends voting against sections 28 and 29."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Shall section 28 carry? I presume you'd like a recorded vote.

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Shafiq Qaadri): Shall section 28 carry?

Ayes

Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Section 28 carries.

Section 29: Those in favour? Carried, unless there's an objection.

Section 30: NDP motion 18.5.

1650

Mr. Paul Miller: I move that section 30 of the bill be struck out and the following substituted:

“No crown liability

“30. No action or other proceeding shall be instituted against the minister, the crown, or any employee of the crown for any act or omission of the minister, an inspector or any other person employed, retained or appointed by the minister.”

This basically removes references to the authority.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: We're not supporting this motion because we believe our regulatory body model, which we created, would be suitable for such direction, especially when those arm's-length regulatory models are not funded by the government.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed, then, to the vote.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 30 carry? Carried.

NDP motion 18.6: Mr. Miller.

Mr. Paul Miller: I move that section 31 of the bill be struck out and the following substituted:

“Minister's annual report

“31(1) By July 1 in each year, the minister shall prepare an annual report about the minister's activities and financial affairs in respect of administering this act in the year ending on the preceding March 31.

“Available to the public

“(2) The minister shall make the report available for public inspection.”

Once again, this motion removes any reference to the authority.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Ramal.

Mr. Khalil Ramal: I guess it's the same argument, because the arm's-length regulatory model that has been created is appropriate to regulate the sector. The government does not fund it. That's why we're not going to support it.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 31 carry? Carried.

Section 32: NDP notice of motion: 18.7.

Mr. Paul Miller: The NDP recommends voting against section 32.

The Chair (Mr. Shafiq Qaadri): Shall section 32 carry? Carried.

Shall section 33 carry? Carried.

Mr. Paul Miller: Could we get a recorded vote on that? I want a recorded vote on all our NDP—on 32. The NDP recommended voting against 32—

Interjection: That's not a motion.

Mr. Paul Miller: You don't have to vote on notice?

The Chair (Mr. Shafiq Qaadri): No.

Mr. Paul Miller: Okay. Fine.

The Chair (Mr. Shafiq Qaadri): Section 34. NDP motion 18.8: Mr. Miller.

Mr. Paul Miller: I move that section 34 be amended by adding the following subsection:

“Notice to public

“(2) Upon receiving an application for a licence, the registrar shall give notice of the application to the public in the manner that the registrar determines and give members of the public the opportunity to make written submission with respect to the application in the manner and at the time that the registrar determines.”

The purpose of this: It obliges information about application for a retirement home licence to be available to the public. It also allows the public to provide written submissions regarding the application.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. We do not feel this proposed amendment is necessary for a number of reasons. Under the bill, information on licence applications would be made through the authority's public registrar, which will include details about the applicant, the care services it proposes to provide and the status of applications. In assessing licence applications, the registrar has the power to conduct inquiries and investigations, and request information from any person who has information that is relevant to the licence application. These powers will ensure that the registrar has access to all relevant information in the licence application process. If the registrar receives any information from the public on an application, the registrar would be free to utilize that information in assessing whether to issue a licence.

The Chair (Mr. Shafiq Qaadri): Further comments on 18.8? Those in favour?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 34 carry? Carried.

Shall section 35 carry? Carried.

Section 36: NDP motion 18.9.

Mr. Paul Miller: I move that section 36 of the bill be struck out and the following substituted:

“Refusal to issue licence

“36. Subject to section 40, the registrar shall refuse to issue a licence to an applicant if, in the opinion of the registrar,

“(a) the applicant has not complied with section 34 or the criteria set out in paragraphs 1 to 4 of section 35 have not been met; or

“(b) the level of care services that will be available to residents in the retirement home that the applicant proposes to operate under the licence is such that it is more appropriate that the premises be governed by or funded under one of the acts listed in clause (d) of the definition of ‘care service’ in subsection 2(1).”

Our argument here is that the fundamental problem in the retirement homes is they will be able to provide the same level of care services as the long-term-care homes, but will be totally unregulated. Without this amendment, there’s nothing in the bill to prevent a retirement home from acting like a long-term-care home, with no regulations on what health care services are provided by whom and how.

This needs to be addressed. It’s very serious. If anything, this is a fundamental question of how we define a retirement home, but the government ignored this for some unknown reason. I don’t know why they ignored it. This issue must be addressed in order to protect Ontarians.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: We’ve been wanting retirement home legislation for a long time. The government has an obligation to define, in the continuum of care, the role that we want retirement homes to play. Right now, if we don’t set a cap as to what level of care people can purchase, then we are opening the door to this parallel system where, in reality, retirement homes will provide any level of care as long as you pay. Not only will we be setting up a private and more than likely for-profit parallel system, not only will we be getting the government off the hook of making sure that we have adequate long-term-care homes to service the needs of Ontarians, but we will do this with absolutely no definition of care and no regulation of care. There is a reason why there’s a book that thick that regulates long-term-care homes: because those people are frail and need to be protected. Without those amendments, frail people who should be looked after in long-term-care homes will continue to live in retirement homes; will continue to pay for more and more complex care as long as they have the money to do this, with absolutely no regulation on the care level and the quality of care that is being delivered.

This is awful. What we are doing here today is terrible. At least make sure that you put a cap on the provision of care. The disaster stories, the headlines, will hit us within weeks of this bill becoming law in Ontario. Long-term-

care providers are chomping at the bit to become retirement homes: “Let’s get rid of the 300 regulations that we have to live under, charge whatever we want to people who have money, and be free of all of the care standards that exist.” If we don’t put a cap on it, be ready for the headlines. You will be responsible for all of the abuse that the vulnerable people of Ontario will live through in our retirement homes.

The bill that you are bringing forward is dangerous. We were better off without legislation than with what you are bringing forward right now. I don’t agree with most of this bill.

You have a chance to at least limit the damage. How do you do this? You limit the amount of care that will be delivered by those unregulated providers.

I hope you do the right thing.

The Chair (Mr. Shafiq Qaadri): Merci, madame Gélinas, pour vos commentaires.

Are there any further comments?

1700

Mr. Vic Dhillon: We will not be supporting this. This legislation establishes a regulatory framework for an existing sector that provides a wide range of services. Right now, seniors living anywhere in Ontario can hire outside personal support workers, nurses and other non-physician health professionals to provide the care they want or need in their home, be that a retirement home, a long-term-care home or their own personal home.

The proposed legislation does not purport to limit the freedom of seniors to continue to access such services, but is about making that reality safer for those seniors who choose to receive care services from a retirement home. The bill already requires applicants for licences to satisfy the registrar that they would be able to meet the regulatory authority care and safety standards for the services being provided and will not operate the home in a manner that is prejudicial to the health, safety or welfare of its residents.

The Chair (Mr. Shafiq Qaadri): Further comments on 18.9? A recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Motion 18.9 defeated.

Shall section 36 carry? Carried.

Shall section 37 carry? Carried.

Section 38: NDP motion 18.10.

Mr. Paul Miller: I move that section 38 of the bill be amended by striking out “authority” and substituting “minister”.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we'll proceed to the vote. All those in favour of—a recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 38 carry? Carried.

Section 39: 18.11. Mr. Miller.

Mr. Paul Miller: I move that section 39 of the bill be amended by adding the following subsection:

“Condition of operating

“(2) It is a condition of a licence that the licensee not admit or maintain, as a resident in the retirement home, a person who requires a level of care services in the home that is more appropriate to be provided at premises that are governed by or funded under one of the acts listed in clause (d) of the definition of ‘care services’ in subsection 2(1).”

This is exactly what Mr. Lalonde was talking about—what happened in Ottawa. We believe that certain homes are not equipped to deal with some people who are sent there from the hospital. This is simply to protect those people and make sure that the hospital and the home provider make sure they make the right decision on where they transport this individual for proper care so that there aren't life-threatening situations, as have happened. I think this is an excellent recommendation, and I don't see why anyone would oppose protecting our seniors.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. Right now seniors can and do purchase a range of care services to provide the care they want or need in their homes, including retirement homes. This act makes this reality safer for retirement home residents who receive care from a retirement home.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: No one is questioning that we all want the proper care for our elderly people in this province, but this is an admission thing: Are you going to admit this person to a home that's not able to deal with the situation that is at hand? You're just talking about how they're going to do what they do, but I'm talking about from when the person is transported from the hospital to the residence that they're sent to. You're not protecting them here. You're just simply saying, “Well, the home offers this and offers that,” but sometimes they get sent to the wrong institution because of lack of communication between the homeowners and the hospital. That's what this is doing here. What you've said is simply, “The home does this and the home does that; this home does that and does that,” but it doesn't communicate that during the transportation, by the paramedics or

whoever is transporting that individual from a hospital setting to a facility, they should know ahead of time that that is the proper facility with the proper equipment to deal with that person's situation. That's exactly what happened in Ottawa. You are not doing anything to clean up that situation. You're leaving it the same. I have grave concerns, Mr. Chairman.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Jean-Marc Lalonde: Just a comment on that: I know what happened in Ottawa and it's not really the retirement home that was to blame in this case; it was the hospital that has taken the wrong decision. This bill will regulate this. They're not supposed to send those people to retirement homes that are not equipped and don't have adequate services to serve those people.

Mr. Paul Miller: Where does it say that in the bill? Why would we be putting this amendment in if you covered that? It doesn't make sense to me why we'd even put the amendment in. It doesn't cover it in the bill. I tend to disagree with that statement. We wouldn't require this amendment if it was there.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? I'll proceed to the recorded vote on NDP motion 18.11.

Ayes

Martiniuk, Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 39 carry? Carried.

With the committee's will, we'll do block consideration of sections 40 to 48, inclusive, having received no amendments to date. Shall those sections so named carry? Carried.

We'll proceed now to section 49, NDP motion 19. Mr. Miller.

Mr. Paul Miller: I move that clauses 49(1)(a) and (b) of the bill be struck out and the following substituted:

“(a) has given the registrar a transition plan that complies with the prescribed requirements, at least 120 days before the home ceases to be operated as a retirement home;

“(b) has delivered directly to each tenant a written notice indicating the date the home will cease to be operated as a retirement home, at least 120 days before the home ceases to be operated as a retirement home, as the case may be;”.

This defines the number of days, 120 days' notice, that tenants must receive before closure of a home. I think this is more than reasonable because these people are in a situation where they might not have the ability to address their situation.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 19? Mr. Dhillon and Madame Gélinas après. One of you proceed.

M^{me} France Gélinas: Do I? Okay. We have to realize that for one reason or another, some of the retirement homes will wish to cease operations. In many parts of Ontario, those people will have a very tough time finding suitable accommodation. The last thing we want is for all of those people to become homeless. That is not going to help anybody. Asking for 120 days before ceasing operations is just one more step to provide for what could be a critical mass of very vulnerable Ontarians.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The amount of notice that must be given in the event of a home ceasing to operate as a retirement home is to be set in regulation to allow for further policy development on this issue. During the development of the regulations, we will be working with stakeholders to determine the appropriate period and process for this notice.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Mr. Miller.

Mr. Paul Miller: Just a quick statement: You will be working with stakeholders? Why didn't you do it before the bill was drafted? I don't understand that. That's like you put the cart before the horse.

Mr. Khalil Ramal: No, we do the regulations after passing the act.

Mr. Jean-Marc Lalonde: Always regulations after.

Mr. Khalil Ramal: Come on, Paul, you've been here for a while.

Mr. Paul Miller: Whatever. Okay.

M^{me} France Gélinas: The point is, we want it in the law to make sure that the authority does not make it shorter. For one reason or another, if one of those operators wants to do a fly-by-night, get all of them out because he has an opportunity to rent it to somebody who will pay way more for his room and throw all of those people out on the street within 30 days, I wouldn't want that to happen. Having it in the law at a minimum of 120 days gives protection to people for whom it could be really hard to find alternate accommodation.

The Chair (Mr. Shafiq Qaadri): Thank you. Monsieur Lalonde.

1710

Mr. Jean-Marc Lalonde: Just to comment on Mrs. Gélinas's comment for 120 days, from my own point of view, I know I have quite a few—and I've discussed this in the past. I don't think 120 days will be enough. It's only the equivalent of four months. Whoever is in one of those retirement homes at the present time—that does not meet the requirements. It takes longer than 120 days to fix the structure or the facility sometimes to meet the new requirement that will be established by the regulations.

M^{me} France Gélinas: Then I'm glad that we agreed. We said at least 120 days. What are we saying? They can set it for a longer period of time, but the bill will prohibit them from setting it at less than 120 days. I think we both agree; we both said the same thing. They will still set it in regulation, they can set it for whatever they want to be reasonable, as the conversation you've had in your riding, but it cannot be under 120 days.

Mr. Jean-Marc Lalonde: I don't want to start a debate, but I definitely will be meeting with the stakeholder to discuss that issue.

The Chair (Mr. Shafiq Qaadri): We shall proceed, then, to the recorded vote on NDP motion 19.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 49 carry? Carried.

By the way, just to alert committee members, we'll adjourn for 10 minutes, I guess, with that vote remaining.

Section 50, government motion 20R.

Mr. Vic Dhillon: I move that section 50 of the bill be amended by adding the following subsection:

"Interpretation, restraints

"(2) The following shall not constitute restraints for the purposes of this part:

"1. The use of a physical device from which a resident is both physically and cognitively able to release oneself.

"2. The use of a personal assistance services device permitted by section 69.

"3. The administration of a drug to a resident as part of the resident's treatment as provided for in the resident's plan of care if the restraining effect of the drug is not the primary purpose for its administration.

"4. Confinement to a secure unit as permitted by section 68 or 70."

The reasoning is that in response to concerns we have heard from stakeholders at committee regarding restraints, we have proposed this amendment to help clarify the definition of restraints. As you will see in our motion to amend subsection 68(1), we have made clear that restraints are prohibited except in accordance with the common law duty to restrain where immediate action is necessary to prevent serious harm to the person or others.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Miller, then Mr. Martiniuk.

Mr. Paul Miller: This seems quite shocking and disturbing. Motion 20R goes further than 20 in that it defines "confinement to a secure unit" as not a restraint. How they came up with that lulu I don't know, but I'm definitely opposed to this.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk and then Madame Gélinas.

Mr. Gerry Martiniuk: I think this just proves the point. What is a person who is violent, incapable of controlling themselves and who could do harm to others and to themselves doing in a retirement home? I have no idea. I thought that person would be in a long-term-care facility. It sounds like a person in high need. Yet for some reason, we're going to have individuals who may or may not be trained to handle a person in an agitated, violent state—so violent that they have to be restrained.

First of all, I have a question. Are we talking about what type of restraint we use on a violent person who is a resident or a tenant in a retirement home? And who would administer it? I just don't understand.

All of a sudden, we have a high-needs person—what is the rationale? What's the government's rationale for having this in the act, number one? And what type of physical device—what is it? A puzzle to push a button to get out of a restraint of some kind? Perhaps you could explain to me what type of restraint we have to use on a tenant in a retirement home.

Mr. Vic Dhillon: I already made my explanation.

Mr. Gerry Martiniuk: You made your—I have a question: I'm asking, very simply, why do we need this section at all? Why do we need a section to control, physically or by drugs, an individual in a retirement home, and who would be administering it? Is there a nurse? Is there a person trained in a psychiatric unit to handle people who are violent? I don't comprehend what this section is doing in a retirement home bill. I would like an answer, and if you don't want to give it to me, then you've just proven my concerns that, in effect, what you're doing is creating a long-term-care facility that the public has to pay for instead of the government. I'm not going to get an answer? Is that basically what you're saying?

Well, I have the following questions in my own mind: Number one, what is a person who requires this section 50 doing in a retirement home? I mean, did they just walk in off the street, perhaps? You mean they're not supposed to be there? Why are they there?

"The use of a physical device from which a resident is both physically and cognitively able to release" themselves. I always remember all the horror pictures, and it seems that this government is bringing the horror pictures back to the public, where one couldn't get out of it. You didn't need a physical device. One sat in a rubber room. I always remember those pictures. I've seen some, too, in a prison that I visited—as a customer, not as a user. But I don't understand what type of restraint—physical device. If it's not restraining, so that the resident is "physically and cognitively able to release oneself," then isn't it an oxymoron to call it a restraint?

Then we have a "personal assistance services device permitted by section 69," and I have no idea what that is.

And we have "administration of a drug to a resident as part of the resident's treatment as provided for in the resident's plan of care"—I don't know when the plan of care took place, if this person is of a violent nature—"if the restraining effect of the drug is not the primary purpose for its administration." I don't understand that.

Perhaps I could ask legislative counsel. Firstly, could you describe to me a physical device that would restrain an individual?

Mr. Michael Wood: It's not really appropriate for me to comment on the policy in the bill, but I can say something about the drafting structure, and that is that a lot of what is in this motion under the new subsection 50(2) is really moved from what presently is in 68(1) and

68(2) of the act. So there is no change in policy. I'd have to leave it to the ministry to explain what the policy is.

But to answer another one of your specific questions: What is a personal assistance services device? There is a definition of that in section 50 of the bill.

1720

Mr. Gerry Martiniuk: Thank you, counsel.

Section 50, "personal assistance services device" means a device that is intended to assist a resident with a routine activity of living if the device has the effect of limiting or inhibiting the resident's freedom of movement and the resident is not able, either physically or cognitively to release oneself from the device."

Does that mean that an individual has to be a Houdini? Is that what happens in this retirement home? They put individuals in a restraint of some kind and, like Houdini, they dislocate a shoulder and somehow wiggle out of the restraint? Is that what we're talking about?

Mr. Michael Wood: Well, I could give you some idea as to what I think it means, and the ministry could comment further on it.

Mr. Gerry Martiniuk: I'm not asking for policy; I'm asking for a definition.

Mr. Michael Wood: I could give you an example that occurs to me. If somebody has difficulty, say, walking or moving around, and it's possible to put that person in a device that allows the person to walk, that would be an example here. The person wouldn't ordinarily be able to release himself or herself from the device because of the physical disability. Or maybe the disability is a cognitive disability. That person just doesn't have the dexterity or the mental awareness to be able to get released from it, but it's a device which is beneficial to the person to be able to move around and perform activities of daily living.

Mr. Gerry Martiniuk: You've just described a walker.

Mr. Michael Wood: As long as you can't release yourself from it, but I think it's more—

Mr. Gerry Martiniuk: I'm really confused. I really do need some help, I honestly do.

Mr. Vic Dhillon: We could maybe have Mr. Martiniuk's concerns addressed by officials from the ministry.

Mr. Alan Ernst: Section 50 sets out the legal definition of a personal assistant service device, but the kind of example that we were envisioning is something like a feeding tray or a temporary support strap while an individual is attempting to have a meal. It's not intended to be a restraint, and it's something that would only be used in conjunction—if you go to section 69 of the act, it's only used for the purpose of assisting the resident with a routine activity of living. That section of the act also illustrates the limits and restrictions on the use of such a device.

Mr. Gerry Martiniuk: Okay, so what you're saying is this not a case where the person is, in some manner, violent? This is just to assist that person in either movement or feeding themselves. I guess the other example is a walker of some kind or physical restraints so they can sit up in a chair.

Mr. Alan Ernst: Yes. For a routine activity of living, as set out in the legislation.

Mr. Gerry Martiniuk: And it's not because they're violent; it's because they're physically or cognitively incapable of carrying on ordinary duties by themselves?

Mr. Alan Ernst: Yes. It's subject to the restrictions that are set out in the legislation.

Mr. Gerry Martiniuk: Okay. That explains something. It doesn't explain the confinement.

Could we go to the confinement, sections 68 and 70? Why would we confine an individual in a retirement home? He's a tenant. Usually tenants don't want people intruding on them, but here we're going to lock somebody away, it sounds like. That's what confinement means, isn't it?

Mr. Vic Dhillon: I think the intent of that would be to care for someone who has Alzheimer's or dementia so that they don't wander away from the premises.

Mr. Gerry Martiniuk: Yes.

Mr. Vic Dhillon: So that's the intent. It isn't for violent people or anything like that. It's just to make sure that people are safe with those conditions.

Mr. Gerry Martiniuk: Hey, there's nothing wrong with that. I've been in long-term care facilities where they do just that. But that's not what this section says, unfortunately. It doesn't talk about, for instance, in the confinement to a secure unit; it doesn't talk about necessarily—it just doesn't say that the reason for this is cognitive impairment. Is that what the section is for? If so, why aren't we saying that? I have no problem with that.

Mr. Vic Dhillon: That is in the section, so—

Ms. Bethany Simons: If I can assist in putting the pieces together?

Mr. Gerry Martiniuk: Sure. Thank you.

Ms. Bethany Simons: The sections that deal with restraints, personal assistance services devices and confinement to a secure unit are set out a bit later in this part, in sections 68 to 71. Section 68 of the act makes clear that restraints are prohibited. The motion to amend that we're discussing now is just being clear that when we say that restraints are prohibited, except in accordance with common law, the things that are being identified in section 50 in the interpretation section don't fall into what is characterized as a restraint. When we get to issues of confinement to a secure unit, section 70 deals with that and all the safeguards that are in place before an individual can be confined to a secure unit—

The Chair (Mr. Shafiq Qaadri): I'm just going to intervene and inform everyone that we have now 10 minutes to the vote, so the committee will be recessed until after the vote. Obviously, if you can be here expeditiously following the vote. Thank you.

The committee recessed from 1726 to 1741.

The Chair (Mr. Shafiq Qaadri): We're reconvened. It's 17, 18 minutes to another vote—until we adjourn.

We have before us government motion 20R, and I invite whoever needs to, to pick up from there. I think you had the floor, Mr. Martiniuk.

Mr. Gerry Martiniuk: Yes. I have a question for counsel again, if I may. It isn't contained in here but maybe we could save some time, because I'll be bringing a motion dealing with it: Under the terms of common law, what privileges would a retirement home have to restrain or confine a tenant?

Mr. Michael Wood: I think it would be more appropriate for the ministry to answer that.

Mr. Gerry Martiniuk: Okay, fine.

Mr. Khalil Ramal: I can answer his question. If Mr. Martiniuk goes to section 69, as outlined in the bill, it explains the details of who's eligible and who's not eligible. All the details are in section 69 of the bill.

Mr. Gerry Martiniuk: Section 61 or 69?

Mr. Khalil Ramal: Section 69.

Mr. Gerry Martiniuk: Does it define "common law" for me?

Mr. Khalil Ramal: Yes.

Ms. Bethany Simons: Actually, it's subsection 71(1). It actually describes the common law duty, which is "when immediate action is necessary to prevent serious bodily harm to the person or to others." That's the common law duty to restrain or confine.

Mr. Gerry Martiniuk: Okay. But that is not the intent of all of the other sections and this particular motion brought by the government to amend section 50.

Ms. Bethany Simons: Right. Section 50 is really an interpretation section that helps make clear, when we get to the section on restraints, which is section 68—we also have a motion to amend, with respect to section 68, to make clear that restraints, as defined, are prohibited except in accordance with the common law duty.

Mr. Gerry Martiniuk: Thank you very much.

Ms. Bethany Simons: You're welcome.

The Chair (Mr. Shafiq Qaadri): We will proceed to the vote, then.

Those in favour of government motion—M^{me} Gélinas, absolument.

M^{me} France Gélinas: I just wanted to be on record that when I hear members of the government talk about those who would be restrained, used for people with dementia or Alzheimer's in response to the member from the PC caucus, it sends shivers down my spine. This is exactly what you have in mind, isn't it? You have in mind that people with level of care needs that meet long-term care requirements will be in those retirement homes. At least at the beginning, you were kind of contrusive about it. Now it's quite clear that in your mind, there will be people with dementia, there will be people with Alzheimer's, and not only will they be there, we will be free to use the restraints as defined in section 50 and section 68.

I don't want those people to be there. This is not what a retirement home is about. If a person has dementia or suffers from Alzheimer's to the point where we're considering a restraint or we're considering a restraint unit, they shouldn't be there.

We will talk more when we get to section 68, but I want to be on record that section 50 does not need to be there. You do not need a section on restraints because

nobody in a retirement home setting should need to use a restraint. In the field, in practice, we're trying to get rid of this as much as possible. When we redrafted the Long-Term Care Act, we spent countless hours, days, weeks and months making sure that the use of restraints was going to be properly legislated, properly regulated and used as little as possible. The fact that those words are in this bill shows exactly where the government is going with retirement homes, and I don't want to go there. People who meet the needs requirements for long-term care should be in long-term care no matter their ability to pay, no matter what you want people to believe.

This is a bad bill. This is bad for Ontario. This is bad for elderly people. This is bad for any frail and vulnerable Ontarian. I'm not surprised that you have said this, but I'm really disappointed.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there further comments? All right. Those in favour of government motion 20R? Those opposed? Government motion 20R carries.

Shall section 50, as amended, carry? Carried.

Section 51, NDP motion 21.1—or is it 21? It's NDP motion 21.

Mr. Paul Miller: I move that subsection 51(1) of the bill be amended by adding the following paragraphs:

“0.1 The rights of a resident set out in this act and the rights of a tenant set out in the Residential Tenancies Act, 2006.

“0.2 The right to exercise the rights of a citizen that the resident has.

“4.1 The right to be told who is responsible for and who is providing care services to the resident.

“4.2 The right not to be neglected by the licensee or the staff of the home.

“4.3 The right to be informed in writing of any law, rule or policy affecting care services provided to the resident and of the procedures for making complaints.

“5.1 The right to have any friend or advocate of his or her choice attend any meeting between the resident and the staff of the home.

“5.2 The right to have his or her personal health information kept confidential in accordance with the Personal Health Information Protection Act, 2004 and to have access to records of that information in accordance with that act.

“6.1 The right to be protected from abuse.

“11. The right to participate in the residents' council.”

This is simply allowing a resident to have human rights, allowing a resident to have the ability to voice their concerns without fear of any reprisals or any confinement. The current rights of a resident are quite narrow as they are now. This expands the rights as recommended by ACE, a major organization serving—it's a non-profit law firm serving seniors throughout Ontario. It's been around for a long time. If you see page 21 of their submission for a full explanation, they can't emphasize to me enough how much the rights of these residents are in question the way this bill has been written. They are very concerned, and trust me, they represent a large portion of our population. I'd be quite

shocked and dismayed if you do not support this recommendation. This is another no-brainer.

1750

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Vic Dhillon: We will not be supporting this. The motion seeks to make additions to the bill of rights to add rights that, for the most part, already exist elsewhere in the act. Such changes would serve little purpose other than to possibly marginalize those rights, not highlight them.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: When you have a tenants' bill of rights and you assume that some of the rights that come to them through other legislation will be known and understood, you're making a huge step. By limiting the amount of rights on the bill of rights, what you're saying is that we're not too sure anymore if those other rights apply. Remember? This bill is bringing in confusion. We won't know who's covered by long-term care, who's covered by residential care. They're all going to be one big happy family, unregulated.

This is not right. When something is not put in writing, there is a tendency to think that it is not part of it. To put things in there such as the tenant has the right to have an advocate—in the field right now, it happens all the time. The landlord has all the cards. They know how much money they have because, chances are, they get their cheque every month. They know what their health care needs are; they have a plan of care. They know everything about the tenant and the tenant has very little to defend themselves with. Not only does the bill not specify the rights the tenant has, it says that the tenants may enforce their rights, but there is no concrete enforcement mechanism that is included in the bill.

So you have a vulnerable person without access to an advocate who is dependent upon the landlord for his day-to-day survival, who may enforce their rights. Who are we kidding here? The stack is levelled against them. You have to bring a little bit of equity between the two parties. What we're putting forward are recommendations that will bring a little bit of equity.

You're right; some of this already exists. What's the harm in putting it there so that the family knows that they cannot tell a family member they cannot sit in on a meeting, that they cannot tell a family member that they cannot put in a complaint? Put it in writing. What harm is it going to do? It's going to level the playing field a little bit.

I don't understand why we're setting out such a bad bill.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the vote.

Interjection: Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jacek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 21.1.

Mr. Gerry Martiniuk: I have no objection if my motion stands down to the identical motion to be brought by the government, and yours, number 23.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk, we're on 21.1.

Mr. Gerry Martiniuk: Isn't that the same one?

The Chair (Mr. Shafiq Qaadri): You're doing a premature motion.

Mr. Gerry Martiniuk: Sorry.

The Chair (Mr. Shafiq Qaadri): It's 21.1. Mr. Miller.

Mr. Paul Miller: I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be detained or restrained except in accordance with the common law."

Very straightforward—

Mr. Gerry Martiniuk: But the three are identical. It's what I said.

Mr. Paul Miller: Follow the law.

Mr. Gerry Martiniuk: I was suggesting that 24 go first, because it's the government. Let them have a win.

Interjection.

Mr. Gerry Martiniuk: Is it the same?

Mr. Paul Miller: Let them have a win? Let us have a win.

The Chair (Mr. Shafiq Qaadri): Comments on 21.1, as read.

Mr. Rick Johnson: What was it again?

Mr. Gerry Martiniuk: I apologize, Chair. I screwed it up for you.

The Chair (Mr. Shafiq Qaadri): It's 21.1. Mr. Miller, why don't you just read it again, please.

Mr. Paul Miller: Mr. Johnson, do you want to hear it again?

Mr. Rick Johnson: Please.

Mr. Paul Miller: Are you ready? Okay.

I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be detained or restrained except in accordance with the common law."

The Chair (Mr. Shafiq Qaadri): Comments? Madame Gélinas?

M^{me} France Gélinas: I cannot, in my wildest imagination, come to think as to why we would detain a person in a retirement home. It is against the law to detain people. I know that we're going to be coming to it,

but I'm letting you know what's coming. You cannot detain people. It's against the law.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed now to the vote on NDP motion 21.1, as read into the record twice now by Mr. Miller.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 21.1 defeated.

PC motion 22: Mr. Martiniuk.

Mr. Gerry Martiniuk: I'll defer to the parliamentary assistant, who has an identical motion.

The Chair (Mr. Shafiq Qaadri): The PC motion is, I understand, officially withdrawn, then?

Mr. Gerry Martiniuk: Yes.

The Chair (Mr. Shafiq Qaadri): Fine. Government motion 23: Mr. Dhillon.

Mr. Vic Dhillon: I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be restrained except in accordance with the common law."

This is in response to concerns we heard regarding restraints. We have proposed this amendment to make it clear that restraints are prohibited except in accordance with the common law: duty to restrain where immediate action is necessary to prevent serious harm to the person or others.

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 23? Those opposed? Motion 23 carried.

We're now once again—

Interjection.

The Chair (Mr. Shafiq Qaadri): I'm informed that NDP motion 24 is out of order, and thus annihilated.

We are now at the 10-minute window, so the committee is once again recessed.

Interjection.

The Chair (Mr. Shafiq Qaadri): Are we done for the day? Oh, even better. We're adjourned for the day until 4 p.m. tomorrow. Bonsoir.

The committee adjourned at 1759.

CONTENTS

Monday 17 May 2010

Retirement Homes Act, 2010, Bill 21, Mr. Phillips / Loi de 2010 sur les maisons de
retraite, projet de loi 21, M. Phillips SP-137

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Gerry Martiniuk (Cambridge PC)

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

Also taking part / Autres participants et participantes

M^{me} France Gélinas (Nickel Belt ND)

Mr. Michael Dougherty, senior policy adviser, Ontario Seniors' Secretariat

Mr. Alan Ernst, manager, Ontario Seniors' Secretariat

Ms. Bethany Simons, counsel, Ontario Seniors' Secretariat

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Michael Wood, legislative counsel



SP-7

SP-7

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Tuesday 18 May 2010

Journal des débats (Hansard)

Mardi 18 mai 2010

Standing Committee on Social Policy

Retirement Homes Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur les maisons
de retraite

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 18 May 2010

Mardi 18 mai 2010

*The committee met at 1635 in committee room 1.*RETIREMENT HOMES ACT, 2010
LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. We're here once again, as you know, to consider the bill and work through clause-by-clause on Bill 21.

Though we have an NDP motion before us, I'll invite Mr. Dhillon to present government motion 25 in section 51 just to expedite the process. Mr. Dhillon, you have the floor to present government motion 25, and then we'll turn to motion 24.1.

Mr. Vic Dhillon: I move that subsection 51(2) of the bill be amended by adding "if any" after "the regulations."

The reasoning for this is that this amendment clarifies the obligations of a licensee to ensure that the rights set out in the residents' bill of rights are fully respected and promoted. The revised wording makes it clear that this obligation will exist even if regulations have not yet been made.

The Chair (Mr. Shafiq Qaadri): Are there any questions or comments on this particular motion? Seeing none, those in favour of government motion 25? Those opposed? I declare motion 25 carried.

Bienvenue, madame Gélinas.

M^{me} France Gélinas: I'm the petition queen. I couldn't get out of there.

The Chair (Mr. Shafiq Qaadri): S'il vous plaît, présentation de motion 24.1.

By the way, just to let you know, we just passed government motion 25—the one immediately following that, but we welcome you to present motion 24.1.

M^{me} France Gélinas: How come I'm at 37 here? Oh no, no, no.

I'm really sorry. I thought everything was in order, but it's not.

Le Président (M. Shafiq Qaadri): Le plancher est à vous.

M^{me} France Gélinas: I move that paragraph 10 of subsection 51(1) of the bill be amended by striking out "authority" and substituting "minister."

This is in line with the position we have taken since the beginning that creating an authority that will be dominated by the industry is actually dangerous to patient care.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. Dhillon.

Mr. Vic Dhillon: We'll be voting against this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory authority to being part of the government.

1640

The Chair (Mr. Shafiq Qaadri): Any further comments from any side? All right, we'll proceed to the vote. Madame Gélinas, do I take it that you'd like a recorded vote on all NDP motions?

M^{me} France Gélinas: Yes, please.

The Chair (Mr. Shafiq Qaadri): Fair enough. Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 24.1 is defeated.

Shall section 51, as amended, carry? Carried.

Section 52: NDP motion 26.

M^{me} France Gélinas: I move that section 52 of the bill be struck out and the following substituted:

"Application of Residential Tenancies Act, 2006

"52. A retirement home is a care home as defined in the Residential Tenancies Act, 2006."

That clarifies the tenancy position of the people in retirement homes. The bill, as it is in the definition page, introduces the term "resident." I take offence to this because all that will do is muddy the water between people that we call a "resident" in a long-term-care institution, or a long-term-care home, versus "tenants" in a retirement home. I want this bill to be clear, not to bring about confusion and possibilities of developing this

parallel long-term-care system. If, in long-term care, people are residents and in retirement homes are people residents, what's to keep a retirement home from becoming a for-profit, paid-for nursing home, which would allow the government to wash its hands of the responsibility it has to provide care to the most frail, elderly residents of Ontario?

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Dhillon?

Mr. Vic Dhillon: Again, we will not be supporting this. The proposed legislation was written in consultation with the Ministry of Municipal Affairs and Housing, and it has been drafted with their input to eliminate the possibility of conflict with the Residential Tenancies Act. A retirement home is not necessarily a care home under the Residential Tenancies Act. The Residential Tenancies Act expressly excludes certain types of living accommodations that would qualify as a retirement home under the bill—for example, accommodation where certain facilities are shared with the owner.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote. Those in favour of NDP motion 26? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

1650

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 52 carry? Carried.

Shall section 53 carry? Carried.

Section 54: NDP motion 27.

M^{me} France Gélinas: I move that clause 54(2)(b) of the bill be struck out and the following substituted:

“(b) a statement that the retirement home is a care home as defined in the Residential Tenancies Act, 2006;

“(b.1) the information required that is required to be contained in an information package mentioned in subsection 140(1) of the Residential Tenancies Act, 2006.”

Here again, we have inconsistent language. The Residential Tenancies Act uses the word “tenant” and “care home,” while Bill 21 refers to “resident” and “retirement home.” We believe that an individual living in a retirement home should be referred to as a “tenant” to emphasize the tenancy aspect of the relationship that they have. Section 52 says that if a retirement home is also a care home, the provision of the Residential Tenancies Act continues to apply. So retirement homes satisfy the criteria to be care homes, although not all care homes may be retirement homes. Can you see how this could easily bring confusion to people? If you are not confused by this, then I will ask you to explain it to me.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be in support of this, for the same reason: The proposed legislation was written in consultation with the Ministry of Municipal Affairs and Housing and it has been drafted with their input to eliminate the possibility of conflict with the Residential Tenancies Act. A retirement home is not necessarily a care home under the Residential Tenancies Act. The information requirement in the retirement home bill goes beyond what is required under the Residential Tenancies Act, but there is no reason why a retirement home couldn't consolidate the information required under both acts and provide it to the resident in one package.

M^{me} France Gélinas: Could you give me an example where a retirement home would not be a care home?

Mr. Michael Dougherty: It's Mike Dougherty again from the Ontario Seniors' Secretariat. If there's a retirement home that has more than six people living in it and they're sharing a kitchen, then under the care home definition in the Residential Tenancies Act, that wouldn't be part of a care home. It's those little nuances that we're trying to—when we discussed this with municipal affairs and housing, they didn't want it to be a specific thing because there's a small piece that might not be overlapping.

M^{me} France Gélinas: So the tenancy act would still apply to those six people.

Mr. Michael Dougherty: As long as they're a retirement home and as long as—yes. The Residential Tenancies Act will apply to it for that piece, for the tenants and the accommodation portion of where they're at.

M^{me} France Gélinas: Okay. What does the kitchen have to do with anything?

Mr. Michael Dougherty: It's just the way that municipal affairs and housing—the way the Residential Tenancies Act has been set up. So if it's a shared kitchen, they don't call it a care home.

M^{me} France Gélinas: If it's a shared kitchen, they don't call it a care home?

Mr. Michael Dougherty: An excluded premises is a home where a kitchen or bathroom facilities are shared with the owner or the owner's family.

M^{me} France Gélinas: So you could have a retirement home where the owner shares the kitchen and the bathroom with the six residents and that would be considered a retirement home?

Mr. Michael Dougherty: Under our definition, it's a retirement home if it's six or more unrelated—if the proportion is people 65 years or older and if it's two care services being offered. We didn't take into our definition the sharing of the bathroom or the kitchen. We're trying to ensure that the care that's being offered there is looked after as opposed to letting the RTA still cover the accommodation portion.

M^{me} France Gélinas: I don't see the relationship to the definition of a care home.

The Chair (Mr. Shafiq Qaadri): Mr. Dougherty, we'd invite you to take benefit of the microphone there.

Mr. Michael Dougherty: Excuse me. My apologies.

M^{me} France Gélinas: I could hear you fine, but I'm guessing others didn't. So what's the relationship with the care home? Why is it not a care home?

Ms. Bethany Simons: If I can assist. It's Bethany Simons, legal counsel to the Ontario Seniors' Secretariat.

For the most part, retirement homes will be care homes under the RTA. However, there are some that may not meet the definition. I agree with what Mike was saying: The example of something that might qualify as being a retirement home under the retirement homes legislation would be an example of a facility where there is a shared bathroom and kitchen with the owner of the retirement home. That would be excluded from the RTA but would be captured by the retirement homes legislation. The interest is to protect the care and safety of the residents in retirement homes even if they're not protected under the RTA.

M^{me} France Gélinas: It's even worse than I thought.

The Chair (Mr. Shafiq Qaadri): Are there any further points of contention on NDP motion 27? If none, we'll take the recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 27.1.

M^{me} France Gélinas: I move that clause 54(2)(g) of the bill be struck out and the following substituted:

"(g) information about the role of the minister and contact information for the minister."

This is consistent with trying to give tenants of retirement homes better and safer care by bringing it under the ministry rather than an authority that will be dominated by the industry.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon?

Mr. Ted McMeekin: Is this in order, given that the previous motion was defeated?

The Chair (Mr. Shafiq Qaadri): A question for the Chair, and the Chair refers it to legislative counsel.

The Chair thanks you for that intricacy.

The Clerk of the Committee (Mr. Katch Koch): The motion is in order.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments on NDP motion 27.1? Mr. Dhillon.

Mr. Vic Dhillon: We will not be in support of this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory body to being part of the government.

The Chair (Mr. Shafiq Qaadri): Further comments on 27.1? Seeing none, we'll proceed to the vote, recorded.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 27.2.

M^{me} France Gélinas: I move that section 54 of the bill be amended by adding the following subsection:

"No fee

"(3) The licensee shall not charge any fee for giving or making available the package of information under this section."

This is self-explanatory, I think. I want to make sure that the retirement home cannot charge the resident a fee for supplying a package of information that they have to supply. From work in the field, I can tell you that this is already the case. Unless it is included in this piece of legislation, it will become the norm.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The policy intent that informs the legislation throughout is to regulate care and safety in retirement homes. Governing costs associated with the operation of retirement homes is not the subject matter of this act.

M^{me} France Gélinas: So what you're saying is that there's a package of information that has to be provided to the resident, but the resident will only get it if he pays for it.

Mr. Khalil Ramal: We didn't say that.

M^{me} France Gélinas: You've just said that it is not the mandate of the law to regulate this, which means that the landlord may ask the tenant to pay a fee to get this information, which is already the case in Ontario. Part of that information that is already available, the landlord charges the tenants to get it. Now you're saying that this package of information will be mandatory, but you will have to pay to get it because you don't want to legislate against it.

Mr. Vic Dhillon: I'm going to have someone from the ministry clarify that.

Mr. Khalil Ramal: Mr. Chair, can I?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Ramal?

Mr. Khalil Ramal: I think that this section does not reflect the direction of the bill, and also the intent of this regulation in this bill is not concerned about who's charging whom. The most important thing in this bill is to regulate retirement homes only. We're not dealing with a different subject in this discussion, I believe.

The Chair (Mr. Shafiq Qaadri): I thank you for your thoughts, Mr. Ramal. Madame Gélinas, are you satisfied, or do you need further clarification?

M^{me} France Gélinas: Absolutely not. How can you say on the one hand that you have a law that says a package of information has to be given to the tenant—it's part of the bill—but then you turn around and say, "But if you don't pay, you don't get it"?

Mr. Alan Ernst: Alan Ernst, from the Ontario Seniors' Secretariat. As we've indicated, the legislation requires that this information be provided to residents, but the object of the bill is not to regulate the costs that retirement homes charge. There will be a register of retirement homes that will provide consumer protection information to consumers, including the care services that they provide.

M^{me} France Gélinas: What will happen when a consumer—I'll call them "a tenant"—does not get this package of information because he or she cannot afford to pay for it?

Mr. Alan Ernst: This isn't a subject of the legislation, but for any contraventions of the act, later in the bill residents will be able to complain, to express their concerns to the retirement home and then to the authority. The authority is empowered to investigate alleged contraventions of the act.

M^{me} France Gélinas: How can you say this? The deck is stacked for the landlord to be able to charge whatever he wants for whatever he wants. You cannot mandate a service that mandates that information be given and allow people to charge for it.

Why is it that you're bound and determined to leave the tenants with nothing to protect them, yet you are so sheepish in putting in any kind of restriction on the landlords to limit the money they're going to be making on the backs of those frail people? What is wrong?

The Chair (Mr. Shafiq Qaadri): If there are no replies forthcoming, are we able to proceed to the vote, Madame Gélinas?

M^{me} France Gélinas: Am I going to get an answer to my question? What's wrong with this thinking?

Mr. Vic Dhillon: I've given my answer. We're ready for the vote.

Interjections.

The Chair (Mr. Shafiq Qaadri): All right, I think we'd better proceed to the vote, then. A recorded vote on NDP motion 27.2.

Ayes

Gélinas, Martiniuk.

Nays

Dhillon, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 54 carry? Carried.

Section 55, NDP motion 27.3: Madame Gélinas.

M^{me} France Gélinas: I move that subsection 55(1) of the bill be amended by adding "at no charge" after "in the home."

Basically, same arguments as before: How can you make something a mandatory action that the landlord has to take but then allow the landlord to charge for it? What are you saying? "This has to be done." If you don't take away the opportunity to charge, you're saying that the tenant will have to do this and will have to pay for it. I want a little bit of balance here. Help out the tenants a little bit. They're frail people, they live in retirement homes, and you are stacking the deck for the landlord to be able to—how can I say?—abuse them financially.

1700

The Chair (Mr. Shafiq Qaadri): Are there any further comments? Mr. Dhillon.

Mr. Vic Dhillon: I just want to state that, with respect to the concerns raised, the retirement home must provide the package, or they will not be in compliance with the act. That's our response to the member's concern.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: But can you not see that the home will answer back, "We have our package ready. We are willing to give it to them if they give us 50 bucks"? How does the tenant argue this?

Mr. Vic Dhillon: That's not going to—

Interjection.

Mr. Vic Dhillon: Yes, exactly. That's not going to happen.

M^{me} France Gélinas: It is happening already.

Mr. Vic Dhillon: Like I said, the package must be provided; otherwise, the retirement home is not in compliance with the act.

M^{me} France Gélinas: Do you know that the landlord has all of the cards? The family is shopping for a safe retirement home for a loved one who is becoming frailer and losing their independence. The home says that the package will be \$20 and that they have to read the information in that package. The government is saying that it is okay for them to charge for something that, in this bill, we make mandatory.

Mr. Vic Dhillon: According to the act, the package must be provided. As far as I can understand, there's no provision for the retirement home owner to force them to pay any cost.

M^{me} France Gélinas: Can you not see the common sense? Those two people—the power is not equal here. You have one who is in need, who is frail, who is needing accommodation, and you have another one who is in full fledge of all of their energy and who wants money. What harm will there be in protecting them and saying, "Mr. Landlord, you will have to give that information, and you cannot charge for it"?

Mr. Vic Dhillon: The act says that it must be provided. It's written clearly in section 54. I don't know what else to tell you. Otherwise, the retirement home will not be in compliance with the act.

M^{me} France Gélinas: And they will add \$20 to the tenant's first month's bill.

Mr. Vic Dhillon: There's nothing that states that in the act.

M^{me} France Gélinas: What harm would be done if you protect the tenant from having to pay?

Mr. Vic Dhillon: There's absolutely nothing that states that a certain dollar amount would be added in the act.

M^{me} France Gélinas: No, that's not what that's about. What this is about is protecting the tenant so that it cannot be done. It is happening already.

Mr. Vic Dhillon: We made it clear in the act that—I'm going to have an official from the ministry elaborate further.

Ms. Diane McArthur: Hi. I'm Diane McArthur. I'm with the Ontario Seniors' Secretariat. There are a couple of provisions in the bill that help with transparency for people deciding when they want to move into a retirement home and/or that they are protected and aware of fees as they're changing when they come up front. First and foremost, the home must make clear the list of fees that they're going to be charging and any change to those fees, so someone has the ability to make an informed decision at the time they move in.

As to putting a limit on a particular component of a fee within the structure of the industry, we were concerned that what would happen is, the fees would just be buried. It's better that it be transparent and available to people to make the decision up front. If they do not provide the information that's listed in the act as mandatory, then they will be in breach of their licence requirement and could be sanctioned thereafter.

M^{me} France Gélinas: Everybody heard that? Not only is it okay to charge people for a mandatory package of information; all you have to do is be transparent about it, and then it is okay to charge for a service that, by law, we're making mandatory. This makes no sense. I don't buy the transparency argument. Come to my riding and try to find a spot in a retirement home. It's not like you can shop around and there are hundreds of them to choose from. You go to the one and only that's available in the village that you live in—if there is one—and the fee that they charge will be whatever they want and whatever the market can bear. That would include fees on information that we have put as mandatory in this bill.

The Acting Chair (Mr. Jean-Marc Lalonde): Okay, we'll proceed with the vote. Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin.

The Acting Chair (Mr. Jean-Marc Lalonde): The amendment is lost.

Shall section 55 carry? Carried.

Sections 56, 57, 58 and 59: There are no amendments. Are they carried? Carried.

The next one is section 60: government motion 28.

Mr. Vic Dhillon: I move that subsection 60(1) of the bill be amended by striking out "the licensee provides" and substituting "the licensee and the staff of the home provide."

The reason for this is that this amendment clarifies that the staff of a retirement home must meet prescribed care standards. This would ensure that even where a home outsources some of the care services it provides to residents, care standards are still complied with.

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Seeing none, in favour of amendment number 28? Against? Carried.

Amendment number 29: PC motion.

Mr. Gerry Martiniuk: I move that section 60 of the bill be amended by adding the following subsection:

"Sprinklers

"(3.1) If a retirement home or part of a retirement home is built after the day on which this section comes into force, the licensee of the home shall ensure that the home or the part of the home, as the case may be, is equipped with automatic sprinklers that comply with the prescribed requirements if they offer greater protection than those found in other Ontario laws, if any, requiring the home to be so equipped."

I think that's fairly straightforward and self-explanatory.

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Seeing none—yes, Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this motion, and I want to mention that no door has been closed on the issue of sprinklers in care homes built prior to 1997. Currently, under the building code, any care occupancies built after 1997 will require sprinklers.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Other questions or comments?

Mr. Gerry Martiniuk: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Yes, Mr. Martiniuk?

Mr. Gerry Martiniuk: I thought this was a bare minimum. I can understand the retirement homes being concerned with retroactive costs, which they would pass on to the residents or tenants, so I carefully drafted this to show that it would not be an additional cost of retrofitting and wouldn't affect any of the present tenants who are residing in these homes.

I'm somewhat disappointed that this cannot be met, because there must be some tenants of these homes who are not up to moving around at a rapid rate, such as some of us, and they have no defence other than sprinklers in many cases. That was the reason for the motion.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments? Yes, Mr. Dhillon?

Mr. Vic Dhillon: I just want to mention that the act would require retirement homes to have specific evacuation plans and to train staff in safety; fire prevention posted in the home and an explanation of the measures to

be taken in case of fire; include information packages detailing nighttime staffing levels; and whether the home has sprinklers in each resident's room.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Any other—

Mr. Gerry Martiniuk: Recorded vote, please.

The Acting Chair (Mr. Jean-Marc Lalonde): Those in favour of amendment number 29?

Ayes

Martiniuk.

Nays

Dhillon, Gélinas, Jaczek, Johnson, McMeekin.

The Acting Chair (Mr. Jean-Marc Lalonde): The amendment is lost.

1710

NDP motion number 30: Madame Gélinas.

M^{me} France Gélinas: I move that section 60 of the bill be amended by adding the following subsection:

“Sprinklers

“(3.1) The licensee of a retirement home shall ensure that the home is equipped with automatic sprinklers that comply with the prescribed requirements if they offer greater protection than those found in other Ontario laws, if any, requiring the home to be so equipped.”

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Mr. Dhillon.

Mr. Vic Dhillon: Again, as I stated before, no door has been closed on the issue of sprinklers in care homes built prior to 1997. The issue of fire safety fits under the safety standards in the legislation, and we will be working with stakeholders on the development of regulations in this area.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Miller.

Mr. Paul Miller: I don't know why the government would hesitate to move ahead with this now. I, personally, would not want to be responsible or in the government's shoes if there's another fatality in this province because of the lack of sprinkler systems.

I don't know how much more information this government requires. We've got the support of the Ontario fire marshal. We've got the support of the Ontario Association of Fire Chiefs. We've got the professional firefighters, who are saying that it's an important tool in the box of tools to fight fires. We've got the coroners' inquests on more than one occasion recommending sprinkler systems for all retirement homes.

I don't know what we have to do—stamp it on someone's forehead? I can't understand why there is resistance to this, but I think I know the resistance to this, and if no one's going to say it, I will. I think it's the fear of losing votes from people who own chains of homes, and support for an individual party financially.

This is a no-brainer. This is the protection of the seniors in our province. This is the protection of our fathers and mothers, our grandparents. What more do you need?

You had a fire, and one of the excuses the government has used is the cost of installation of fire sprinkler systems. Well, let me give you an example of the fire in Mississauga where several people died, several people had brain injuries. This is what happened in Mississauga: The fire cost the insurance company over \$8 million. People died in that fire. They did an investigation: How much would it cost to put a sprinkler system in that building? And it was not that old of a building; I think it was built just before 1996. It would cost \$47,000 for a sprinkler system for that building. The fire chief at the scene of the fire said that the sprinkler systems would have saved lives.

What more does this government need when you've got everyone involved in fighting fires, you've got the coroner's office, you've got all the other organizations coming forward—health organizations and everyone else—saying, “Put the sprinklers in”? The only reason you're not putting the sprinklers in is because you're afraid of losing votes and you're afraid of the people who own these chains coming out against you in the next election. It's absolutely unconscionable that you're not putting in sprinkler systems.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. Miller. Any other questions or comments? Yes, Mr. McMeekin.

Mr. Ted McMeekin: I just want to note that the act will require that the owners comply with all prescribed safety standards, including all standards with respect to fire safety, so let's be clear about that. There's no exclusion from fire safety standards as are currently there, and there is a requirement that homes built after 1997 include sprinklers. So any new homes built are going to include sprinklers. In the meantime, while we're working with the stakeholders to review the most prudent way to move forward, the owners of these homes will have to comply with all existing standards. I think that's reasonable.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. McMeekin. Madame Gélinas.

M^{me} France Gélinas: Just a clarification on this 1997 deadline: If a building was built for reasons other than being a retirement home—let's just say it's a big family home—they would not have been required to have a sprinkler system. In small, rural areas you will see a lot of big family homes, as the family moves away, become retirement homes like we were talking about a minute ago where people share a bathroom and where people share a kitchen. They won't be covered by a sprinkler system.

What my colleague had tried to say is that we have an opportunity to protect those people. If you're going to become a retirement home, you'd better have a sprinkler system.

Mr. Vic Dhillon: Becoming a retirement home after 1997, it must have a sprinkler system.

M^{me} France Gélinas: Even if it wasn't built as a retirement home?

Mr. Vic Dhillon: They would be applying for a licence. If it's after 1997, and it's being converted to a retirement home, it would require them to have a sprinkler system.

M^{me} France Gélinas: Can I have legislative counsel confirm this?

The Acting Chair (Mr. Jean-Marc Lalonde): Can we ask legislative counsel?

Mr. Michael Wood: I'm legislative counsel, but I think it's more appropriate for the ministry counsel to answer this because it involves a question, I think, to do with the building code.

The Acting Chair (Mr. Jean-Marc Lalonde): Oh, legislative counsel. That's ministry.

Mr. David Brezer: Good afternoon. I'm David Brezer with the Ontario Seniors' Secretariat.

My understanding of the Ontario building code is that there's a requirement that where a change of use occurs, even where there is not construction—your example of a house being converted into a care occupancy—a building permit would be required, and fire sprinklers would be required.

Second of all, by the time the licence is required, there's a statement that would require that fire and building and health be in compliance prior to the issuance of a licence. This bill creates a second protection or a check to make sure that those are in place.

M^{me} France Gélinas: Okay. On one hand, we have an acknowledgement that sprinklers save lives and sprinklers are a worthwhile investment, but we're not willing to go this extra step to protect everybody. Can you see where it's kind of a dichotomy here?

Mr. Vic Dhillon: No; I think we are going the extra step by ensuring that strict safety standards be met, that there are plans for evacuation, that everyone knows how many staff are on hand and what to do in case of a fire. That will be strictly enforced according to this act. We are ensuring, in the most realistic way, to avoid any fatalities because of fire.

The Acting Chair (Mr. Jean-Marc Lalonde): I believe we did get an answer from the ministry counsel. Yes, Mr. McMeekin?

Mr. Ted McMeekin: Just on that, as a courtesy, because the question was a good one, and I thought the clarification was helpful, I wonder if the member opposite would covenant to share the clarification with her colleague who had raised the question so that he knows about the conversion provision. That would be helpful.

He's unfortunately not here to have heard the clarification of the question he originally asked. It would be helpful not to have clarify it in the House again since it's been clarified here. As a courtesy, I just suggest that to the honourable member opposite.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. I think we have discussed that.

M^{me} France Gélinas: Will do.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed with the vote on NDP motion 30.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Shall section 60, as amended, carry? Carried.

Shall section 61 carry? Carried.

Section 62: NDP motion 30.1.

M^{me} France Gélinas: I wish to withdraw this motion.

The Acting Chair (Mr. Jean-Marc Lalonde): It is withdrawn.

PC motion 31: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 62(2) of the bill be amended by adding "written" after "resident's."

This is where the individual has to consent to a plan of care that will map out that person's future. There's no mention in the act whether it should be in writing or orally, so it could be left orally. I think it's incumbent on us to ensure that we have evidence that the person has consented. That protects not only the person who is the resident or tenant, but it also protects the staff who of course have received that consent.

1720

As a former lawyer, I prefer to have things in writing than orally. It's much easier to prove.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The bill, as drafted, provides authority for the development of regulations governing the form and consent of plans of care, which could include this requirement if it is felt necessary after work on this area.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments? Seeing none, those in favour of motion number 31 from the PCs? Opposed? Defeated.

NDP motion 31.1.

M^{me} France Gélinas: I move that subsection 62(3) of the bill be struck out and the following substituted:

"Performance of assessments, etc.

"(3) All assessments, reassessments and plans of care mentioned in this section that a licensee performs shall be completed by a member of a college of a health profession set out in schedule 1 to the Regulated Health Professions Act, 1991 that is appropriate given the needs of the resident for care services and shall be performed in accordance with the prescribed criteria."

All this does is it makes sure that you have somebody from the Regulated Health Professions Act who does those care plans. You are talking about the care of people who could be frail, people who are elderly. The care plan, I'm telling you, could get very complicated, and in order

for this to be done, it needs to be done by a competent, college-regulated health professional.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Madame Gélinas. Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this because a retirement home is not a long-term-care home. There is the requirement for greater flexibility in a number of areas, and this is one such area. This requirement may be too onerous for both operators and residents, depending on the care needs of the resident. However, if after consultations on the care regulations it is found that this would be an appropriate requirement, there is the power to prescribe in regulation specific requirements for assessments and approval of plans of care.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments?

M^{me} France Gélinas: This is so dangerous. How many headlines are you guys going to have to read that these regulations have put people at risk and have actually had drastic, negative consequences for those people before you wake up and do the right thing and give some protection? If you are going to sign a care plan, you should be covered by a college that says that you have the knowledge, expertise and experience to sign such a plan.

To give greater flexibility to the owners—do you know what you're saying? You're saying that the owner can hire whoever he wants. If you find somebody bold enough who knows nothing about care but is willing to sign for a buck, then they will hire this person, this person will sign the care plan, and he or she will know squat, bugger all about care or has happened to learn it from her mother who used to be a nurse 30 years ago.

This is what we will find in Ontario's residential and retirement homes. How can you set this up? You are setting yourselves up for failure and you are setting those people up for danger.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: There will be further consultation in drafting the regulations. Depending on that, there will be further regulations.

The Acting Chair (Mr. Jean-Marc Lalonde): No other questions or comments? If not, those in favour of NDP motion 31.1? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

NDP motion 31.2.

M^{me} France Gélinas: I move that subsection 62(5) of the bill be amended by striking out “are given an opportunity.”

Basically, what we are talking about here is that the resident has to participate in the development of his or her care plan, because those people are going to be paying for those services. You have it set up right now that the person will have “an opportunity” to have a say in their care plan. How could this be good?

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this. Resident involvement in the assessment, upon which a care plan is based, and the subsequent development of a care plan is important. However, in both cases residents should have the freedom to choose whether to consent to an assessment or participate in the development, implementation or review of the plan of care.

This legislation is about respecting a senior's right to choose how they live their lives. It may be that the resident does not want to participate in the actual development, implementation or review of the plan of care.

M^{me} France Gélinas: You are giving them the freedom to be abused—abused financially, to provide care that they don't need at a price that they cannot afford. This is not called freedom; it is called abuse.

If you're going to be in a retirement home and paying for each and every one of those services and the owner happens to not really want you to participate in your plan of care, he is free to line up the services that make the most money for him and let you pay for it. You maybe were given an opportunity while you were sleeping; they said, “Hey, Joe, do you want to participate?” Joe was sleeping. “We'll add those services onto his bill.”

This is not right. You are stacking them up to fail.

Mr. Vic Dhillon: I think the assertions you're making are not right. We're giving the people the choice; that's all.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. We'll proceed with the vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

NDP motion 31.3: Ms. Gélinas.

M^{me} France Gélinas: I move that subsection 62(9) of the bill be struck out.

The Acting Chair (Mr. Jean-Marc Lalonde): Any explanation?

M^{me} France Gélinas: I'm trying to remember what subsection 62(9) was about.

Mr. Ted McMeekin: You want to strike that out? Currently, the operator has to get the permission of the client. If you strike that out, that would remove that provision. It's called fundamental self-determination, I think.

The Acting Chair (Mr. Jean-Marc Lalonde): Madam Gélinas? No other comments?

M^{me} France Gélinas: No. I'm going to withdraw this. Sorry.

The Acting Chair (Mr. Jean-Marc Lalonde): You'll withdraw this one?

1730

M^{me} France Gélinas: Yes.

Mr. Khalil Ramal: Agreed.

The Acting Chair (Mr. Jean-Marc Lalonde): Okay. Agreed, to withdraw 31.3.

Shall section 62 carry? Carried.

On to 31.A: NDP motion.

Mr. Gerry Martiniuk: I've got 31.4.

The Acting Chair (Mr. Jean-Marc Lalonde): Pardon me, 31.4. Thank you, Mr. Martiniuk.

M^{me} France Gélinas: I move that subsection 63(3) of the bill be amended by striking out "and" at the end of clause (b) and by adding the following clause:

"(b.1) provide a notice, of the results of the assessment to the registrar."

Basically, this has to do with keeping a record of the assessment available to the registrar so that as people are assessed as needing a higher level of care or needing a higher level of acuity, it will be known to a transparent body, and hopefully appropriate action will be taken.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this. If the bill passes, licensees will be required to document information about what happens when an assessment of a resident indicates they are reaching a prescribed level of care need, and provide the documentation to the registrar. This is a compliance issue. The registrar has the ability to require the licensee to provide the information and, if circumstances warrant, can request so. The requirement to inform a resident or his or her substitute decision-maker about alternatives to living in a retirement home, about admission to a long-term-care home and contacting the local CCAC, where requested, will be a valued tool in monitoring possible movement towards the long-term-care system.

The Acting Chair (Mr. Jean-Marc Lalonde): Madame Gélinas.

M^{me} France Gélinas: Do you want to see how many minutes?

Mr. Ted McMeekin: Thirty minutes.

M^{me} France Gélinas: Thirty? Okay.

The Acting Chair (Mr. Jean-Marc Lalonde): We have time.

M^{me} France Gélinas: We will now have this parallel system of retirement homes where, as long as you have the money to pay, you can buy as much care as you want. It will be in the owner's interest to add onto that bill, to

add onto the level of care that they are providing to make more money on the backs of people requiring care. All I'm asking for is that an independent third party, the registrar, be made aware, because the home owner is in a pecuniary conflict of interest without the amendment.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other comments? Seeing none, those in favour of NDP motion 31.4? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Jaczek, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Moving to motion 31.5: NDP motion.

M^{me} France Gélinas: Subsection—

The Acting Chair (Mr. Jean-Marc Lalonde): Sorry, that one is out of order.

Subsection (3) defeated the motion that we just defeated, so we're going to—

M^{me} France Gélinas: So can I not just keep the last part, that no fee can be charged for assessing the notice of assessment?

The Acting Chair (Mr. Jean-Marc Lalonde): You're proposing to move the motion without the first section, subsection (4)? Okay, Mrs. Gélinas, 31.5 with the exception of subsection (4).

Mr. Gerry Martiniuk: Could we have it read into the record?

M^{me} France Gélinas: I'll read it right now.

Subsection 63(5):

"No fee

(5) The licensee shall not charge any fee for providing information under this section."

Basically, what this is all about is that it obligates the registrar to maintain the notice of assessment and that no fee can be charged for accessing information covered. You have said that the owner can send this information to the registrar. If the tenant wants to access that information, there should not be a fee.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon?

Mr. Vic Dhillon: We will be opposing this as this is related to 63.3, the previous amendment. Again, we will not be voting in favour of it.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other comments? Madame Gélinas.

M^{me} France Gélinas: In his comments to my previous motion, he did say that the owners can send information to the registrar. All we're asking is that there's no fee.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll have the explanation from the ministry people.

Ms. Diane McArthur: Hi, it's Diane McArthur again from the Ontario Seniors' Secretariat. As with the other

sections where you've raised the issue of the fee, this bill doesn't speak to how fees are charged. It does say that where fees are changed, they are transparent. There is an obligation that information be provided, and if for any reason the information is not provided, then they are in breach and can be sanctioned by the retirement home authority accordingly.

M^{me} France Gélinas: So as the law is written, if an owner decides to charge and the person pays—it's added to their bill—it will be legal in Ontario?

Ms. Diane McArthur: The retirement home must make clear what charges they are levying up front and early on and any changes to those charges, but it does not speak to for which services or how the service structure and fee charges are structured.

M^{me} France Gélinas: Let's try again with a yes or a no answer: The owner puts it up front that there will be a fee. Therefore, it will be legal?

Ms. Diane McArthur: The bill in no way limits or speaks to what the fee structure of the homes shall be.

M^{me} France Gélinas: Thank you.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. We'll proceed with the vote. Recorded vote: Those in favour of the amendment, 31.5.

M^{me} France Gélinas: J'avais des commentaires à faire.

The Acting Chair (Mr. Jean-Marc Lalonde): You had comments?

M^{me} France Gélinas: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Sorry. Commentaires ; madame Gélinas.

M^{me} France Gélinas: Can you not see that by not regulating those types of fees, unscrupulous owners will use them to keep people from having access to information that is pertinent to good-quality care, that is pertinent to the safety of residents? We all know that a fee is a deterrent. A family without much financial means may decide not to access that information when really, it would have been in the best interests of the tenant that they do.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Defeated.

Shall section 63 carry? Carried.

Going to section 64, NDP motion 31.5.1: Madame Gélinas.

M^{me} France Gélinas: I move that section 64 of the bill be amended by adding the following subsection:

"Workplace Safety and Insurance Act, 1997 coverage

"(3) For greater certainty, the licensee of a retirement home who hires staff or accepts volunteers to work in the home is deemed to be a schedule 1 employer as defined in the Workplace Safety and Insurance Act, 1997."

This is here, again, to make the bill clearer that the people who will be working or volunteering in retirement homes in Ontario will be covered by the Workplace Safety and Insurance Board if they happen to hurt themselves.

The Acting Chair (Mr. Jean-Marc Lalonde): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be voting for this. The government is committed to workplace health and safety. However, we will not be supporting this motion as it has significant implications for both operators of retirement homes and their staff and volunteers as well as the WSIB, which require further consideration. We will, however, continue to consult with our colleagues at the Ministry of Labour to explore this further in the future.

1740

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Martiniuk?

Mr. Gerry Martiniuk: I have a question. Does that mean that at present, retirement homes are not covered by the WSIB?

The Acting Chair (Mr. Jean-Marc Lalonde): Questions from ministry counsel or staff?

Ms. Bethany Simons: In terms of a schedule 1 employer, a retirement home is not currently listed as an employer, and their employees would not be entitled to the WSIA benefits.

Mr. Gerry Martiniuk: Okay. How about a long-term-care facility?

Ms. Bethany Simons: They are prescribed.

Mr. Gerry Martiniuk: Thank you very much.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Madame Gélinas?

M^{me} France Gélinas: By your actions, you are making this parallel system where not only will the tenants not have any rights, but the workers won't have any, either. They will be contract; they will be subcontract; they will come in and do work for the home and leave. This is not a recipe or best practice for quality care. The act is very much balanced so that there will be so much money to be made in retirement homes that they will fall over one another to open up those homes, and that will take the pressure away from your government to fund long-term-care beds.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. McMeekin?

Mr. Ted McMeekin: I think it has been quite clear today. Ms. Gélinas makes a couple of good points in regard to this clause. That having been said, she has the government's assurance that, because of the complications, which, in Ms. Gélinas' own words, are potentially so broad, we do need further consultation, specifically with WSIB, as well as the Ministry of Labour. That's the reason why we're not supporting it. It doesn't mean that down the road there won't be an indication that this is appropriate. Were that the case, I'm assuming it would

be, Mr. Parliamentary Assistant, a regulation that would be brought in.

Mr. Vic Dhillon: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Seeing none, those in favour of NDP motion 31.5.1? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Defeated.

Shall section 64 carry? Carried.

Section 65, NDP motion 31.6. Madame Gélinas—yes, Mr. Johnson?

Mr. Rick Johnson: Just for clarification, we've had several motions throughout that we've defeated, that seek to change the word "authority" and substitute the word "minister." If this current one, 31.6, was to pass, would that not mean then that all of the other ones where we changed it would have to pass as well? Is this not redundant?

The Acting Chair (Mr. Jean-Marc Lalonde): We'll ask legislative counsel. Yes, Mr. Dhillon?

Mr. Vic Dhillon: I just want to get on record, with respect to the previous motion, that it would be the Minister of Labour who would be making the decision as to the workers and volunteers being included under the WSIB, and not the minister responsible for seniors. I just wanted to clarify that.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you for the clarification. The question from Mr. Johnson?

The Clerk of the Committee (Mr. Katch Koch): Mr. Johnson, the motion, in the context of the session, is not out of order, but if you look at it in the context of the bill, you may want to rethink it.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed immediately with motion 31.6, NDP motion, Madame Gélinas.

M^{me} France Gélinas: I move that clause 65(2)(i) of the bill be amended by striking out "authority" and substituting "minister."

In response to Mr. Johnson, there's always the faint-hope clause, and at this point this is what I'm hoping for.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of the government.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Seeing none, a recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Motion 31.7: NDP motion, Madame Gélinas.

M^{me} France Gélinas: I move that subsection 65(5) of the bill be amended by adding the following paragraph:

"4.1 Training in the requirements for consent to treatment under the Health Care Consent Act, 1996."

We have already passed the section in the bill where informed consent needs to be obtained. Informed consent is something that has been legislated and that has been defined. All health care professionals receive training so that they know exactly what constitutes informed consent and what doesn't. Because you have struck down the amendment that would have mandated that you use registered health care professionals, at a minimum those people have to be trained as to what constitutes informed consent and what doesn't; otherwise, trouble will arise.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: The consent-to-treatment part of the Health Care Consent Act, 1996, relates to treatment provided by health care practitioners and thus would not apply to all retirement home staff who may provide direct care to residents, for example, staff who provide meals. The bill already requires staff to be trained in all acts and regulations that are relevant to their duties. This could encompass training in the Health Care Consent Act, 1996, depending on the staff member's duties.

In addition, the bill allows the government to prescribe additional training requirements. After consulting on the regulations, it may be that training is determined to be necessary on consent issues generally, not just the Health Care Consent Act, so it is not appropriate to limit the training to this specific act at this point.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. Dhillon. Other comments? Madame Gélinas.

M^{me} France Gélinas: You never need to get consent before you serve a meal, but you do need to get consent if you're going to be providing care. What you are saying is that you will have untrained, non-licensed people providing care and that they won't even need to know what "informed consent" means. To put this into the bill brings a level of assurance that you at least know that before you're going to do something, even if you're not a licensed health care professional—you should know that before you're going to do a delegated act, you need consent. Right now, in retirement homes all over Ontario there are untrained people who, after they finish cutting

hair, start delivering pills to all of the tenants of the retirement home. They have no clue what informed consent is. They have no clue that they're supposed to ask for consent. What you're saying is that those practices are fine.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Madame Gélinas. Mr. Dhillon.

Mr. Vic Dhillon: Absolutely not. That's not what we're saying. We've stated clearly that the staff must be trained in whatever job that they're doing, and if that involves training in the Health Care Consent Act, then that's the appropriate training that will be required, depending on their duties. It's stated clearly.

M^{me} France Gélinas: That is in contradiction with the first statement that he read, that says that the informed consent only applies to registered health professionals.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed with the vote. NDP motion 31.7, a recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde):
Motion defeated.

Shall section 65 carry? Carried.

Seeing no motion for section 66, shall section 66 carry? Carried.

Shall section 67 carry? Carried.

It is 10 minutes to 6 and there's a vote, and the committee can only sit until 6 o'clock, so I would move that the committee adjourn until Monday, May 31, at 2 p.m.

Meeting adjourned.

The committee adjourned at 1750.

CONTENTS

Tuesday 18 May 2010

Retirement Homes Act, 2010, Bill 21, Mr. Phillips / Loi de 2010 sur les maisons de
retraite, projet de loi 21, M. Phillips SP-167

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

M^{me} France Gélinas (Nickel Belt ND)

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Gerry Martiniuk (Cambridge PC)

Also taking part / Autres participants et participantes

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

Mr. David Brezer,

Mr. Michael Dougherty,

Mr. Alan Ernst,

Ms. Diane McArthur,

Ms. Bethany Simons,

Ontario Seniors' Secretariat

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Michael Wood, legislative counsel

14721
X(14
-592



SP-8

SP-8

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Thursday 20 May 2010

Journal des débats (Hansard)

Jeudi 20 mai 2010

Standing Committee on Social Policy

Retirement Homes Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur les maisons
de retraite

Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Thursday 20 May 2010

Jeudi 20 mai 2010

*The committee met at 1403 in room 228.*RETIREMENT HOMES ACT, 2010
LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome. As you know, we're here to finish up clause-by-clause on Bill 21, An Act to regulate retirement homes. Welcome to all.

Ms. Witmer, did you want to just officially, with reference to motion 32—

Mrs. Elizabeth Witmer: Yes. Based on government motion 33, I'm going to withdraw 32.

The Chair (Mr. Shafiq Qaadri): Thank you.

We'll now proceed to government motion 33.

Mr. Lou Rinaldi: Can we get a few seconds, Chair?

Interjection.

The Chair (Mr. Shafiq Qaadri): So government motion 33. Mr. McMeekin.

Mr. Ted McMeekin: I move that subsection 68(1) of the bill be struck out and the following substituted:

"Restraints prohibited

"(1) No licensee of a retirement home and no external care providers who provide care services in the home shall restrain a resident of the home by the use of a physical device or by the administration of a drug except as permitted by section 71."

The Chair (Mr. Shafiq Qaadri): Are there any comments? Mr. Miller.

Mr. Paul Miller: It appears that the government is trying to give the appearance that they're correcting aspects of this bill with respect to restraints, but there's—

The Chair (Mr. Shafiq Qaadri): Pardon me, Mr. Miller, I'm just going to intervene. I think we need to get the right motion read.

Interjection.

Mr. Ted McMeekin: That's the motion I read.

The Chair (Mr. Shafiq Qaadri): I just need to convince our greffier ici. I need to convince him that's what you read.

Mr. Ted McMeekin: Having run a bookstore for years, I'm reasonably good at reading what's in front of me.

Interjection.

The Chair (Mr. Shafiq Qaadri): Are we content?

Mr. Paul Miller: Everybody happy now?

The Chair (Mr. Shafiq Qaadri): Mr. McMeekin, maybe I can just ask you to read it again to calm various punctilious grammarians who are here.

Mr. Ted McMeekin: I move that subsection 68(1) of the bill be struck out and the following substituted:

"Restraints prohibited

"(1) No licensee of a retirement home and no external care providers who provide care services in the home shall restrain a resident of the home in any way, including by the use of a physical device or by the administration of a drug except as permitted by section 71."

The Chair (Mr. Shafiq Qaadri): Thank you. I now give the floor to Mr. Miller. Go ahead, please.

Mr. Paul Miller: Thank you, Mr. Chairman. The government is trying to give the appearance that they're correcting the wrong aspects of the bill in respect of restraints, but there essentially is absolutely no change to this. We've stuck to this position all the way through, that there should be no restraints except under the common law. No home administration should be allowed to restrain people unless it's done by the letter of the law, and this amendment does absolutely nothing to change that.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Ted McMeekin: We had some great leadership from Frances Lankin, you may recall, and that was what changed the situation then. It was inspired leadership—leadership that all members of the Legislative Assembly responded to positively, and this is consistent with that. She showed some great insight and moved us forward, and we want to keep the spirit of the changes she spirited for us well. That's why this motion is here.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Recorded vote, please.

Ayes

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

We proceed now to NDP notice of motion 33.1. Mr. Miller.

Mr. Paul Miller: Notice for sections 68 and 70: The NDP recommends voting against sections 68 and 70.

If the committee wishes to remove an entire section from the bill, the rules of parliamentary procedure require that the committee vote against the section, rather than pass a motion to delete it. So we're, obviously, against it.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed now to consider this section as amended. Shall section 68, as amended, carry? Carried.

We'll now proceed—

Mr. Paul Miller: Recorded vote, please. I mean—

The Chair (Mr. Shafiq Qaadri): Fine. Shall section 68, as amended, carry?

Ayes

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

Nays

Paul Miller.

1410

The Chair (Mr. Shafiq Qaadri): Carried.

Section 69, PC motion 34. Ms. Witmer.

Mrs. Elizabeth Witmer: The PC Party recommends voting against sections 69 and 70.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote unless there are any comments? Mr. Miller.

Mr. Paul Miller: Would the member please explain her reasoning for this?

Mrs. Elizabeth Witmer: I think it's going to be defeated. I can withdraw it if you like.

Mr. Paul Miller: No, no. I just wanted to know your explanation of why you want it done. What we see in this—I just want clarification why they are voting against the use of personal assistance devices, because I have no idea what they would do with this. Could it be a typo, or are we just voting against section 70? I'm not sure what's going on here.

Mrs. Elizabeth Witmer: I have no doubt that the critic would be able to give you a complete explanation as to why that would be his recommendation.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote on section 69. Shall section 69 carry? Carried.

We proceed now to section 70, NDP motion 34.1.

Mr. Paul Miller: I move that clause 70(3)(d) of the bill be amended by striking out "or another prescribed person".

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: We will not be supporting this, as this regulation-making power was added to provide flexibility. In particular, this flexibility will enable us to follow the Ministry of Health's lead. It is not intended to dilute the protections residents will have in respect of

confinement. Currently, we have no intention of making further regulations on this.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Miller.

Mr. Paul Miller: This is 34.1, correct?

The Chair (Mr. Shafiq Qaadri): Yes.

Mr. Paul Miller: This eliminates the right for additional persons other than physicians or nurse practitioners to recommend confinement. Only highly trained persons should be able to make that decisions, not administrators of homes. So we feel that this is really out of order here and it's not going to be constructive for the situation for our seniors. We will not be supporting this.

I think I'll save you a lot of aggravation, Mr. Chair-man. As I asked you the other day, all the NDP motions will want recorded votes. You said it was okay the other day; I thought it carried on for today. You looked like you had to go backwards, but I had asked for that the other day.

The Chair (Mr. Shafiq Qaadri): And you'd like to continue now.

Mr. Paul Miller: I would like to continue with that.

The Chair (Mr. Shafiq Qaadri): Certainly, as you like. We'll proceed to the vote, then. NDP motion 34.1: recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 34.2.

Mr. Paul Miller: I move that subsection 70(6) of the bill be amended by striking out "a review described in the regulations" and substituting "a review by the Consent and Capacity Board".

The explanation for this is that ACE—you know that organization—felt very strongly about this. They're the legal representatives of huge senior groups throughout our province. This motion helps to ensure that all reviews of a resident's confinement are heard by the Consent and Capacity Board, which already hears the applications under the Mental Health Act. An experienced body should be the place where reviews are heard, not something left to regulations. That's what we feel about this.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be in support of this. The intent is to utilize the health Consent and Capacity Board for this process, and we intend to put this in the regulations.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: Can he repeat that, please? He agrees with the capacity board there? Is that what I heard you say?

Mr. Vic Dhillon: No.

Mr. Paul Miller: You don't want to do that? Could you repeat what you just said? The last two sentences?

Mr. Vic Dhillon: The intent is to utilize the health Consent and Capacity Board for this process, and we intend to put this in regulations.

The Chair (Mr. Shafiq Qaadri): Maybe I can just invite everyone to aim at their microphone as well. We're having some hearing issues here.

We'll proceed to the vote. Those in favour of NDP motion 34.2—recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

On to 34.3, NDP motion: Mr. Miller.

Mr. Paul Miller: I move that subsections 70(7) to (10) of the bill be struck out and the following substituted:

“Conduct of review

“(7) The review shall be conducted in accordance with the regulations.

“Contacting a rights adviser

“(8) If a substitute decision-maker of a resident of a retirement home has, on the resident's behalf, consented to the resident's confinement to a secure unit of the home, the licensee of the home shall promptly contact a rights adviser on behalf of the resident and give the resident both written and verbal notice of having done so.”

Again, ACE, who as a law firm represents several seniors' organizations, huge seniors' organizations in our province, felt very strongly about this. Bill 21 creates a new, weaker system of rights advice, and this motion corrects it. The NDP motion makes it an obligation of the retirement home to contact a rights adviser when a substitute decision-maker agrees to confinement, rather than only complying on the insistence of the resident.

The ACE brief made this quite clear, and it makes sense to me that the person who may have been appointed will not necessarily at all times have the best interests of the resident in their consideration. They think that this, a third party being contacted about this move—the resident may have Alzheimer's. The resident may be in a situation where they're really not making calls for themselves, and this person, this individual—we want a third group to be able to oversee what may possibly be a bad decision by the person who's representing the home.

Once again, this is a no-brainer. It's just a safeguard system for the resident. I don't know why anyone would vote against this.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon?

Mr. Vic Dhillon: The Ontario Seniors' Secretariat consulted extensively with the Ministry of Health and Long-Term Care in the development of the proposed act.

By no means are we intending to dilute the protections; rather, we intend to adopt and customize Health Care Consent Act provisions to match up with our legislation.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Paul Miller: The secretariat does not necessarily represent all elderly people in this province. ACE has for years—decades—represented discrepancies, represented citizens who felt they weren't dealt with fairly. I'm not quite sure I'd rely totally on the secretariat to make the decisions for seniors in this province. I think this is a bad move and I think it's going to come back and bite you.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed to the vote, then—recorded—on NDP motion 34.3.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 34.4.

Mr. Paul Miller: I move that subsection 70(11) of the bill be amended by striking out “If a rights adviser is contacted by the resident or by the licensee on behalf of the resident” in the portion before clause (a).

The reason for this one is that it's similar to the one above. It removes uncertain language about whether a rights adviser is contacted or not.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be in favour of this as we've consulted extensively with the Ministry of Health and Long-Term Care on this issue and believe that the bill's current approach appropriately balances a resident's right to rights advice and the obligations of a licensee.

Mr. Paul Miller: Once again, I think the government is consulting one group. They don't speak for all seniors in this province. I believe ACE, who represents legally all situations in homes and any other situations that crop up for seniors in this province, was not consulted. I really think that that was one of the most important bodies, and once again, the ministry did an end-run: It took just one group's advice on this particular situation and did not deal with ACE at all, and ACE is a very important organization.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote—recorded.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 70 carry?

Section 71: PC motion 35.

1420

Mrs. Elizabeth Witmer: I'm going to withdraw that motion.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. PC motion 35, withdrawn. NDP motion—

Mr. Vic Dhillon: Motion 35.1, Chair?

The Chair (Mr. Shafiq Qaadri): Pardon me?

Mr. Vic Dhillon: Was that 35 or 35.1?

The Chair (Mr. Shafiq Qaadri): PC motion 35 has now been withdrawn, therefore we will proceed now to NDP motion 35.1. Mr. Miller?

Mr. Paul Miller: I move that subsection 71(1) of the bill be struck out and the following substituted:

"Common law duty re restraint

"71(1) Nothing in this act authorizes a person to detain or restrain a mentally capable resident in a retirement home except in accordance with the common law."

The purpose of this is to clearly state that no mentally capable resident shall be restrained or detained except as allowed under common law. Once again, if you look at ACE's submission, they totally think that this is going to be challenged more than once or twice in a few months, as soon as this is done. As soon as you start restraining people under regulations, ACE and their law firm will be moving in that direction. Just a heads-up.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Any further comments on 35.1?

Mr. Vic Dhillon: As noted, the proposed legislation allows for confinement to a secure unit, but only where a whole host of safeguards are met, including consent. Nothing in this act affects the common-law duty to restrain or confine a person to a secure unit. This issue has been clarified by government amendment. Except in accordance with the common-law duty, no person may be restrained regardless of that person's mental capability. We will not be voting for this.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Miller?

Mr. Paul Miller: I'd like to ask the parliamentary assistant: Who made these decisions about what safeguards are in place? What group made that? Did you consult with all groups that deal with seniors in this province about safeguards?

Mr. Vic Dhillon: There were extensive consultations, as we've stated. We met with—

Mr. Paul Miller: Who were the groups you dealt with?

Mr. Vic Dhillon: We met with a variety of stakeholders from various sectors. I mean, it's a long list. Maybe I can have the ministry staff further elaborate on that.

Mr. Paul Miller: Just a quick question: Is ACE on your list?

Mr. Michael Dougherty: ACE was part of the consultations in 2007, and we also discussed—

Mr. Paul Miller: Did you follow their guidelines or did you go ahead with your own?

Mr. Michael Dougherty: Actually, we listened to them and then we also listened to the Ministry of Health, and we took the best advice—

Mr. Paul Miller: ACE isn't happy. You may have listened, but I don't think you implemented a lot of their things. Anyways, moving on.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the recorded vote on NDP motion 35.1.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 71 carry? Carried.

We'll do block consideration, if it's the will of the committee, of sections 72 to 75 inclusive. Shall they carry? Carried.

We'll now proceed to section 76, NDP motion 35.2. Mr. Miller?

Mr. Paul Miller: I move that subsection 76(1) of the bill be amended by striking out "may" and substituting "shall".

This is self-explanatory. "May"? May do it, may not do it. "Shall" is a very common word used in litigation: "shall do it," not "may do it." Very simple.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: We'll be voting against this but introducing another amendment to clarify the government's intention.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote on NDP motion 35.2.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 35.3, Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Chair. I move that subsection 76(1) of the bill be struck out and the following substituted:

"Inspectors

"76(1) The registrar shall appoint inspectors as are necessary for the purposes of this act."

This is, again, just to clarify the government's intention in this area.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: I'd like a clarification. What do you mean, the government's position? I'd like you to clarify why you're changing this. It may be your position; it may not be mine. What are you doing here?

Ms. Bethany Simons: Bethany Simons, counsel to the Ontario Seniors' Secretariat. In response to the NDP motion, we saw that this was an opportunity to clarify in the drafting that inspectors will be and shall be appointed in order to carry out their responsibilities under the act. They will be appointed as necessary for the purposes of the act.

Mr. Paul Miller: So you agree with the last motion, then? They "shall," not "may."

Ms. Bethany Simons: That's right.

Mr. Paul Miller: I don't know why you didn't just pass mine. It would have saved you a lot of aggravation. Anyways.

Mr. Ted McMeekin: It's just to be clear.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote then. Government motion 35.3: Those in favour? Those opposed? Government motion 35.3 carries.

Shall section 76, as amended, carry? Carried.

Block consideration: Sections 77 to 78, shall they carry? Carried.

Section 79, government motion 36: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 79(7) of the bill be amended by striking out "(6)" and substituting "(5)."

This is a technical amendment that simply corrects an incorrect cross-reference.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote. Those in favour of government motion 36? Opposed? Carried.

Shall section 79, as amended, carry? Carried.

Block consideration: Sections 80 to 85 inclusive, shall they carry? Carried.

Section 86, NDP motion 36.1. Mr. Miller.

Mr. Paul Miller: I move that section 86 of the bill be amended by adding the following subsection:

"Copy of final inspection report

"(2) An inspector who conducts an inspection under paragraph 2 of section 84 or under section 85 shall give the final inspection report described in subsection 77(14) to the complainant in addition to the persons and entities to whom the inspector is required to give the report under that subsection."

The reason for this one is the same as above: It obligates the registrar to provide complainants the final report of the inspection that their complaint triggered.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Chair, this amendment is unnecessary, as complainants will have access to summaries of inspection reports through a range of mechanisms. Edited copies of final inspection reports must be made available in the retirement home and provided to the residents' council, and a summary is to be posted on the authority's public registry. These inspection reports must be edited before they are released because they may contain

personal information or personal health information. I will not be in support of this.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 86 carry? Carried.

Shall section 87 carry? Carried.

Section 88, PC motion 37: Ms. Witmer.

Mrs. Elizabeth Witmer: Yes, based on information, I'll be withdrawing that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer.

NDP motion 37.1: Mr. Miller.

Mr. Paul Miller: I move that subsection 88(11) of the bill be struck out and the following substituted:

"Appeal to the board

"(11) The complainant may appeal a decision of the complaints review officer under subsection 9 to the prescribed entity in accordance with the time period that is prescribed and other requirements, if any, that are prescribed.

"Appeal entity

"(12) The prescribed appeal entity for the purpose of subsection 11 shall not be the authority or any person employed, retained or appointed by that authority."

The reason for this is that it is essential that there is both the right to appeal as well as the right to appeal to a transparent body.

The Chair (Mr. Shafiq Qaadri): Comments?

1430

Mr. Vic Dhillon: The authority is tasked with ensuring compliance with the act and exercising its enforcement capabilities to investigate non-compliance. Complaints are an important tool to bring matters to the attention of the authority and will be important to help the authority to identify non-compliance of licensees. The current approach in the bill to complaints is appropriate for the regulatory structure proposed; however, this policy direction can be reviewed after five years under the process set out in section 120 of the act.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Miller.

Mr. Paul Miller: Mr. Chairman, you're allowing people to appeal to the body that will be dominated by industry people. What kind of transparency is that? If I've got five people who vote—there are nine people on the board and five of them are from the industry, and the industry decides they want to go a certain way, where's the protection for seniors there? They're outvoted. It's almost like being on committee: five Liberals, two Con-

servatives and one NDP. We've got as much chance as a hole in the wall.

So I'm wondering how you can say that you think that's transparent. If you have a third party that doesn't deal with a dominated board, then you might have an opportunity to say that it's transparent. I can't believe you can't see the forest for the trees. Unbelievable.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote if there are no further comments. Those in favour of NDP motion 37.1, recorded.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 88 carry? Carried.

Shall sections 89 to 92 carry? Carried.

Section 93, NDP motion 37.2. Mr. Miller?

Mr. Paul Miller: I move that subsection 93(1) of the bill be amended by striking out "authority" and substituting "minister".

This eliminates the reference to the authority, replacing it with the minister.

The Chair (Mr. Shafiq Qaadri): Thank you for your comments. Mr. Dhillon?

Mr. Vic Dhillon: The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would in fact change that. We do not support changing the authority from being an arm's-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 93 carry? Carried.

Section 94, NDP motion 37.3. Mr. Miller?

Mr. Paul Miller: I move that subsection 94(3) of the bill be amended by striking out, once again, the word "authority" and substituting "minister".

Same as the above.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote. Those in favour of NDP motion 37.3?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 94 carry? Carried.

Block consideration: Shall sections 95 to 106, inclusive, carry? Carried.

Section 107, NDP motion 37.4. Mr. Miller?

Mr. Paul Miller: I move that section 107 of the bill be amended by striking out, once again, the word "authority" and substituting "minister".

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 37.4? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 107 carry? Carried.

Block consideration of sections 108 and 109. Shall they carry? Carried.

Section 110, NDP motion 37.5. Mr. Miller?

Mr. Paul Miller: I move that section 110 of the bill be amended by striking out the word "authority" wherever that expression appears and substituting in each case "minister".

The Chair (Mr. Shafiq Qaadri): All those in favour of NDP motion 37.1?

Mr. Paul Miller: It's 37.5, isn't it?

The Chair (Mr. Shafiq Qaadri): Sorry, 37.5.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 110 carry? Carried.

Block consideration: Shall sections 111 and 112 carry? Carried.

Section 113, NDP motion 37.6. Mr. Miller?

Mr. Paul Miller: I move that subsection 113(2) of the bill be struck out and the following substituted:

"Health numbers

"(2) Despite subsection 34(2) of the Personal Health Information Protection Act, 2004, inspectors, the minister

and the minister's employees, appointees and agents may collect and use health numbers for purposes related to the minister's duties or powers."

The reason for this is it eliminates the reference to "authority," replacing it with "minister," as we've stated before.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of NDP motion 37.6? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 37.7: Mr. Miller.

Mr. Paul Miller: I move that subsection 113(3) of the bill be amended by striking out the portion before clause (a) and substituting the following:

"Disclosure

"(3) The minister and the minister's employees and agents shall preserve secrecy with respect to any information, including personal information and personal health information, obtained in performing a duty or exercising a power under this act and shall not communicate the information to any person except,"

This, once again, eliminates the reference to "authority" and replaces it with "minister."

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 113 carry? Carried.

Block consideration of sections 114 to 117, inclusive: Shall they carry? Carried.

Section 118. NDP motion 37.8: Mr. Miller.

Mr. Paul Miller: I move that section 118 of the bill be amended by striking out "authority" and substituting "minister".

The Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 118 carry? Carried.

Shall section 119 carry? Carried.

Section 120, NDP motion 37.9.

Mr. Paul Miller: I move that section 120 of the bill be struck out and the following substituted:

"Review of act

"120(1) Within three years after this section comes into force and at least every five years after that, the minister shall undertake a comprehensive review of this act in consultation with all persons and entities that to the knowledge of the minister are affected by this act and shall prepare a report setting out the findings of the review.

"Publication and tabling in assembly

"(2) The minister shall make the report available for public inspection and shall deliver the report to the Speaker of the assembly, who shall lay the report before the assembly at the earliest reasonable opportunity.

"Public consultation before making regulations

"120.1 Subject to subsection (7), the Lieutenant Governor in Council shall not make any regulation under section 121 unless,

"(a) the minister has published a notice of the proposed regulation in the Ontario Gazette and given notice of the proposed regulation by all other means that the minister considers appropriate for the purpose of providing notice to the persons who may be affected by the proposed regulation;

"(b) the notice complies with the requirements of this section;

"(c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (2)(b) or (c), have expired; and

"(d) the minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2)(b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the minister considers appropriate.

"Contents of notice

"(2) The notice mentioned in clause (1)(a) shall contain,

"(a) a description of the proposed regulation and the text of it;

"(b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the minister and the manner in which and the address to which the comments must be submitted;

"(c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;

"(d) a statement of where and when members of the public may review written information about the proposed regulation;

"(e) all prescribed information; and

“(f) all other information that the minister considers appropriate.

“Time period for comments

“(3) The time period mentioned in clauses (2)(b) and (c) shall be at least 60 days after the minister gives the notice mentioned in clause (1)(a) unless the minister shortens the time period in accordance with subsection (4).

“Shorter time period for comments

“(4) The minister may shorten the time period if, in the minister’s opinion,

“(a) the urgency of the situation requires it;

“(b) the proposed regulation clarifies the intent or operation of this act or the regulations; or

“(c) the proposed regulation is of a minor or technical nature.

1440

“Discretion to make regulations

“(5) Upon receiving the minister’s report mentioned in clause (1)(d), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the minister’s report.

“No public consultation

“(6) The minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 121 if, in the minister’s opinion,

“(a) the urgency of the situation requires it;

“(b) the proposed regulation clarifies the intent or operation of this act or the regulations; or

“(c) the proposed regulation is of a minor or technical nature.

“Same

“(7) If the minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 121,

“(a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and

“(b) the minister shall give notice of the decision to the public and to the commissioner as soon as is reasonably possible after making the decision.

“Contents of notice

“(8) The notice mentioned in clause (7)(b) shall include a statement of the minister’s reasons for making the decision and all other information that the minister considers appropriate.

“Publication of notice

“(9) The minister shall publish the notice mentioned in clause (7)(b) in the Ontario Gazette and give the notice by all other means that the minister considers appropriate.

“Temporary regulation

“(10) If the minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 73 because

the minister is of the opinion that the urgency of the situation requires it, the regulation shall,

“(a) be identified as a temporary regulation in the text of the regulation; and

“(b) unless it is revoked before its expiry, expire at a time specified in the regulation, which shall not be after the second anniversary of the day on which the regulation comes into force.

“No review

“(11) Subject to subsection (12), neither a court, nor the registrar, nor the complaints review officer shall review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the minister under this section.

“Exception

“(12) Any person resident in Ontario may make an application for judicial review under the Judicial Review Procedure Act on the grounds that the minister has not taken a step required by this section.

“Time for application

“(13) No person shall make an application under subsection (12) with respect to a regulation later than 21 days after the day on which,

“(a) the minister publishes a notice with respect to the regulation under clause (1)(a) or subsection (9), where applicable; or

“(b) the regulation is filed, if it is a regulation described in subsection (10).”

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Mr. Paul Miller: Now, an explanation: A five-year initial review is far, far too late. This needs to be changed. There’s no obligation for consultation in the drafting of these regulations. Given the fact that the government did not consult with the appropriate stakeholder groups in the drafting of this legislation, and given the huge inadequacies of this legislation, as we’ve learned in committee hearings, this is the basic and minimum standard to make sure that regulations are appropriate. This streamlines—tightens up—any possibility of problems with the regulations.

I don’t know why you wouldn’t have taken this advice. It’s sound advice; it’s researched advice; it’s good advice, and it would be absolutely unconscionable if you turned down this amendment.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: Five-year review: The policy decision was taken to require a review of the act, to be undertaken within five years, to ensure the authority had some experience with which to compare and review.

Consultation on regulations: We support the intention of this motion and will introduce a government motion to clarify the government’s intention concerning consultations during regulation development. So we will not be in support of this.

Mr. Paul Miller: So you’re telling me that it has merit and you’re going to come out with further amend-

ments to this, or are you saying that you're just not supporting this? Did you even—

Mr. Vic Dhillon: We support the intent of this. We will be coming—

Mr. Paul Miller: So you do support it.

Mr. Vic Dhillon: Exactly.

Mr. Paul Miller: You do support it, but you're going to come out with your own. Is that what you're saying?

Mr. Vic Dhillon: The intent, with some additions.

Mr. Paul Miller: So are you saying that you're accepting the whole body of this recommendation or just the parts that suit you?

Mr. Vic Dhillon: No, we're not. No.

Mr. Paul Miller: So you're going to do your own, is what you're saying.

Mr. Vic Dhillon: Well, we'll have a better amendment.

Mr. Paul Miller: You won't have a better one, but you'll do your own.

Okay, I'm against—I'm voting for this one.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, McMeekin, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 120 carry? Carried.

Section 121. NDP motion 37.10: Mr. Miller.

Mr. Paul Miller: I move that paragraph 21 of subsection 121(1) of the bill be struck out.

Once again, I believe that this is a housekeeping motion. I don't know why you'd have a problem with it. I'm double-checking this with the legislative counsel. Is that correct?

Mr. Michael Wood: Well, it does confer some substantive power in regulation. It's a power of the LG in C to make a regulation to specify what provisions of the Health Care Consent Act are to apply to retirement homes. If you take out this power, then you couldn't adapt the provisions of the Health Care Consent Act as they apply to retirement homes.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: I believe the government motion should be the next one, 37.9.1.

Mr. Paul Miller: I don't have it. Sorry.

The Chair (Mr. Shafiq Qaadri): What number are you quoting, Mr. Dhillon?

Mr. Paul Miller: He said 37.9.1. I don't have it. It's not even on my list.

Mr. Vic Dhillon: Motion 37.9.1?

Mr. Paul Miller: It's not on my list. Sorry, you missed the boat.

Mr. Vic Dhillon: Chair, can we have a five-minute recess?

The Chair (Mr. Shafiq Qaadri): Can they have a five-minute recess—

Mr. Paul Miller: No, I don't agree with that—no. If you don't have it here—we don't have it. We can't deal with something we don't have.

The Chair (Mr. Shafiq Qaadri): I'm informed the committee needs to recess to get the photocopies etc. So yes, a five-minute recess is now in force.

The committee recessed from 1447 to 1450.

The Chair (Mr. Shafiq Qaadri): We resume with NDP motion 37.10. I believe it's already been read into the record. Are there any further comments on it? We'll proceed to the vote on NDP motion 37.10, a recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 37.11: Mr. Miller?

Mr. Paul Miller: I move that the following provisions of subsection 121(1) of the bill be amended by striking out "authority" wherever that expression appears and substituting in each case "minister": subparagraph 32ii and paragraphs 33 and 36.

The Chair (Mr. Shafiq Qaadri): Comments? From any side? We'll proceed then to the recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Mangat, Rinaldi.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 121 carry? Carried.

Section 121.1, new section, government motion 37.12. Mr. Dhillon?

Mr. Vic Dhillon: I move that the bill be amended by adding the following section in part VII:

"Public consultation before making initial regulations

"121.1(1) The Lieutenant Governor in Council shall not make the initial regulation with respect to any matter about which the Lieutenant Governor in Council may make regulations under this act unless,

"(a) the minister has published a notice of the proposed regulation on the website of the ministry of the minister and in any other format the minister considers advisable;

“(b) the notice complies with the requirements of this section;

“(c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (2)(b) or (c), have expired; and

“(d) the minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2)(b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the minister considers appropriate.

“Contents of notice

“(2) The notice mentioned in clause (1)(a) shall contain,

“(a) a description of the proposed regulation and the text of it;

“(b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the minister and the manner in which and the address to which the comments must be submitted;

“(c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;

“(d) a statement of where and when members of the public may review written information about the proposed regulation; and

“(e) all other information that the minister considers appropriate.

“Time period for comments

“(3) The time period mentioned in clauses (2)(b) and (c) shall be at least 30 days after the minister gives the notice mentioned in clause (1)(a) unless the minister shortens the time period in accordance with subsection (4).

“Shorter time period for comments

“(4) The minister may shorten the time period if, in the minister’s opinion,

“(a) the urgency of the situation requires it;

“(b) the proposed regulation clarifies the intent or operation of this act or the regulations; or

“(c) the proposed regulation is of a minor or technical nature.

“Discretion to make regulations

“(5) Upon receiving the minister’s report mentioned in clause (1)(d), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the minister’s report.

“No public consultation

“(6) The minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this act if, in the minister’s opinion,

“(a) the urgency of the situation requires it;

“(b) the proposed regulation clarifies the intent or operation of this act or the regulations; or

“(c) the proposed regulation is of a minor or technical nature.

“Same

“(7) If the minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this act,

“(a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and

“(b) the minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision.

“Contents of notice

“(8) The notice mentioned in clause (7)(b) shall include a statement of the minister’s reasons for making the decision and all other information that the minister considers appropriate.

“Publication of notice

“(9) The minister shall publish the notice mentioned in clause (7)(b) on the website of the ministry of the minister and give the notice by all other means that the minister considers appropriate.

“No review

“(10) Subject to subsection (11), a court shall not review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the minister under this section.

“Exception

“(11) Any person resident in Ontario may make an application for judicial review under the Judicial Review Procedure Act on the grounds that the minister has not taken a step required by this section.

“Time for application

“(12) No person shall make an application under subsection (11) with respect to a regulation later than 21 days after the day on which the minister publishes a notice with respect to the regulation under clause (1)(a) or subsection (9), if applicable.”

The explanation for this amendment is that after consultations on regulations, we’re introducing a government motion in response to stakeholders’ concerns and to confirm the government’s intent to consult on the initial regulations developed under this act. This reflects the feedback from stakeholders, and this consultation provision is consistent with the Long-Term Care Homes Act’s approach to consultation. This provision would include a notice of a proposed regulation on the ministry’s website, a description of the proposed regulation as well as the text of the regulation and provide at least a 30-day comment period for the members of the public to offer comment, with a few limited exceptions.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? If there are none, we’ll proceed, then, to the vote. Those in favour of government motion 37.12? Those opposed? Motion 37.12 carries.

Shall section 121.1, as amended, carry? Carried.

Block consideration of sections 122 to 124: Carry? Carried.

We’ll proceed now to section 125, NDP motion 39.1.

Mr. Paul Miller: Has 39 been withdrawn?

The Chair (Mr. Shafiq Qaadri): Yes, PC motion 39 has been withdrawn. We are now proceeding to section 125, NDP motion 39.1.

Mr. Paul Miller: I move that the bill be amended by adding the following section:

“Coroners Act

“125.1(1) Subsection 10(2.1) of the Coroners Act, as it read on the day before the Long-Term Care Homes Act, 2007 received royal assent, is amended by striking out ‘or a nursing home to which the Nursing Homes Act applies’ and substituting ‘a nursing home to which the Nursing Homes Act applies or a retirement home to which the Retirement Homes Act, 2010 applies’.

“(2) Subsection (1) applies only if section 208 of the Long-Term Care Homes Act, 2007 does not come into force before this subsection comes into force.

“(3) Subsection 10(2.1) of the Coroners Act, as it will read on the day section 208 of the Long-Term Care Homes Act, 2007 comes into force, is amended by adding ‘or a retirement home to which the Retirement Homes Act, 2010 applies’ after ‘the Long-Term Care Homes Act, 2007 applies’.

“(4) Subsection (3) applies only if section 208 of the Long-Term Care Homes Act, 2007 comes into force.”

The Chair (Mr. Shafiq Qaadri): Mr. Miller, I’m required to read to you this exceptionally eloquent ruling by the Chair, which reads as follows:

Committee members, I would like to rule on the admissibility of this amendment that proposes to amend a section—

Mr. Paul Miller: I’m sorry, could you slow down? What’s this about?

The Chair (Mr. Shafiq Qaadri): Committee members, I would like to rule on the admissibility of this amendment that proposes to amend a section to a parent act that is not before the committee. I therefore rule this motion out of order.

If you need clarification, I’m happy to allow legislative counsel to do so.

Mr. Paul Miller: Yes, I’d like legislative counsel to send an explanation, please. Could I have a hard copy sent to my office, please, the explanation of why it doesn’t apply? I’d like it in writing.

Mr. Michael Wood: I understand that the Chair of committee will give you the hard copy of his ruling. I can assist in explaining what the ruling says.

By parliamentary precedent, it is not in order to move a motion to amend an act which is not already being amended in a bill unless you get unanimous consent of the committee.

Mr. Paul Miller: Can I get that in writing, your explanation?

Mr. Michael Wood: It’s not my ruling. It’s a ruling of the Chair, and the Chair will send you that in writing.

Mr. Paul Miller: Can I get it in writing, please?

The Chair (Mr. Shafiq Qaadri): Yes, we will do so, Mr. Miller.

We’ll now proceed. That motion is essentially out of order. We’ll proceed directly to the vote, unless there are any other comments on section 125. Seeing none, we’ll proceed to the vote. Shall section 125 carry? Carried.

Block consideration: Shall sections 126 to 129 carry? Carried.

Shall the title carry? Carried.

Shall Bill 21, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

If there’s no further business before the committee, I thank you for your patience, endurance and whatever other personal qualities you required to get through this particular clause-by-clause consideration. The committee is now adjourned.

The committee adjourned at 1500.

CONTENTS

Thursday 20 May 2010

Retirement Homes Act, 2010, Bill 21, Mr. Phillips / Loi de 2010 sur les maisons de retraite, projet de loi 21, M. Phillips	SP-179
--	--------

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mrs. Amrit Mangat (Mississauga–Brampton South / Mississauga–Brampton-Sud L)

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

Mr. Lou Rinaldi (Northumberland–Quinte West L)

Also taking part / Autres participants et participantes

Mr. Michael Dougherty,

Ms. Bethany Simons,

Ontario Seniors' Secretariat

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer,

Legislative Research Service

Mr. Michael Wood, legislative counsel

SP-9



SP-9

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 23 August 2010

Journal des débats (Hansard)

Lundi 23 août 2010

Standing Committee on Social Policy

Not-for-Profit
Corporations Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur les organisations
sans but lucratif

Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 23 August 2010

Lundi 23 août 2010

The committee met at 1000 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I welcome you to the Standing Committee on Social Policy. As you know, we're here to have hearings on Bill 65, An Act to revise the law in respect of not-for-profit corporations. To begin our proceedings I would invite a member of the government to please read into the record the last subcommittee report, for which I'll call Mr. Johnson.

Mr. Rick Johnson: The Standing Committee on Social Policy summary of decisions made at the subcommittee on committee business:

Your subcommittee on committee business met on Monday, July 5, 2010, and Monday, August 9, 2010, to consider the method of proceeding on Bill 65, An Act to revise the law in respect of not-for-profit corporations, and recommends the following:

(1) That, pursuant to the order of the House dated June 1, 2010, the committee intends to hold public hearings on August 23, 24, 25 and 26, 2010, in Toronto, Kitchener, Sudbury and Kingston.

(2) That the use of videoconference and teleconference be considered should the number of requests received not warrant the committee to travel to any given location.

(3) That the committee clerk, with the authority of the Chair, post information regarding the committee's business for one day in the Toronto Star, the Globe and Mail, Le Droit, L'Express and in the daily or weekly publications in each of the locations, including ethnic newspapers where possible.

(4) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(5) That interested people who wish to be considered to make an oral presentation on Bill 65 should contact the committee clerk by 12 noon, Monday, August 9, 2010.

(6) That the committee clerk provide the subcommittee members with an electronic list of all requests to appear on Monday, August 9, 2010.

(7) That if possible, the committee clerk, in consultation with the Chair, be authorized to accommodate any requests received after the deadline.

(8) That groups/individuals be offered 10 minutes in which to make a presentation and answer questions.

(9) That the deadline for written submissions be 5 p.m., Thursday, August 26, 2010.

(10) That the administrative deadline for filing amendments be 12 noon, Monday, August 30, 2010.

(11) That, pursuant to the order of the House dated June 1, 2010, clause-by-clause consideration of the bill is scheduled for August 31 and September 1, 2010.

(12) That the research officer provide the committee with a memo on simplified procedures and other ideas regarding not-for-profit incorporation in other jurisdictions.

(13) That the committee clerk, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Are there any questions or queries regarding the subcommittee report? If not, may I move its adoption as read? Thank you; adopted as read.

NOT-FOR-PROFIT
CORPORATIONS ACT, 2010LOI DE 2010 SUR LES ORGANISATIONS
SANS BUT LUCRATIF

Consideration of Bill 65, An Act to revise the law in respect of not-for-profit corporations / Projet de loi 65, Loi modifiant des lois en ce qui concerne les organisations sans but lucratif.

SOCIAL PLANNING COUNCIL
OF SUDBURY

The Chair (Mr. Shafiq Qaadri): We'll now proceed to our presentations, beginning, I believe, with a teleconference from Sudbury: Ms. Gasparini, the executive director of the Social Planning Council of Sudbury. Are you online, Ms. Gasparini?

Ms. Janet Gasparini: I am.

The Chair (Mr. Shafiq Qaadri): Thank you. Just to remind you and others, you'll have 10 minutes in which to make your presentation, which will be enforced with military precision. If there's any time remaining within

that, it will be distributed evenly amongst the parties for questions. I'd invite you to please begin now.

Ms. Janet Gasparini: Thank you very much. First of all, thank you for accommodating me by telephone. We got your notices here in Sudbury. The Social Planning Council is often the convener of other organizations, so as I do often with these kinds of consultations, I contact a number of people in the sector. I want you to know that just because we couldn't get enough people organized to present doesn't mean that this issue doesn't have great interest and concern here in Sudbury. So I appreciate that I am able to talk to you by phone and sorry that you couldn't be here in person.

A number of agencies have looked at, particularly, the ONN brief and have supported me in saying to you that we want you to know that in the field this is a very important issue. That we couldn't get enough non-profit agencies to come to a hearing is not indicative of our lack of interest but is more indicative of the state of the non-profit sector, particularly over the summer months, as people try to get in some vacation, and the pressures that the non-profit sector is under, given the supposed recovery from the recession that we're experiencing. People are working full-out, and so in many organizations, particularly small ones, we just don't have the staff or the human resource power to participate in this kind of a proceeding. So I have been directed by many of my colleagues in Sudbury to speak on their behalf.

In Sudbury we have reviewed the ONN brief, which I think you have a copy of and which I know you're going to hear a great deal about today. We are very grateful to the Ontario Nonprofit Network. It has been a long time coming that we have an organization that engages and in some ways helps to speak for non-profit organizations, and so you will hear from a number of people engaged with that brief. We are very supportive of that brief here at the Social Planning Council and in the non-profit agencies in Sudbury.

In particular, I want to speak about the definition that you're talking about. I want to be clear: It really is important that if an agency is going to be acknowledged as something for public benefit, then that really has to be about public benefit. It's not related to whether or not you get government money, but what kind of work you're doing and who you're doing it for. The example I would use is that here in Sudbury we have a golf course, a golf club, that is a private golf club. They're registered as a non-profit and they serve their members well. However, they are not a public benefit organization. You'd have to have lots of money to be able to join that particular club. Their mandate and their mission is not to serve the public; it's to serve their members. We need a real distinction between non-profit organizations that are serving a membership and non-profit organizations that are truly serving the public, providing social services and/or other goods to people in need. That might, in fact, include Little League baseball. I'm not saying it's not about recreation or it's not about sports, but I think the definition has to be much clearer about the service that

you're actually providing. The reason I think that's important is that as we move ourselves forward in innovative fundraising capacities, which we have to do more and more, it's important for people to recognize the difference between an agency that serves public good and a private, for-their-own-membership non-profit, so we want to be able to make that distinction.

In terms of the value of this legislation as we move forward, more and more non-profit organizations are having to become very innovative around their own funding, and so we're exploring more and more the field of social enterprise, and there are many interesting and exciting opportunities coming our way. For example, here in Sudbury we're looking at geodesic domes that would allow us to expand the growing season from February to the end of November, and how we do that as a social enterprise so that all of the profits that would be made from that kind of an operation would go back into the operation to keep it going and perhaps spawn other kinds of organizations. There's a wealth of information out in the wide world about social enterprise. We are getting more and more engaged as non-profits in that field and look forward to becoming more and more self-sufficient.

I think this legislation is important in all of the ways it can support that work so that we are able to raise money through commercial enterprises, but knowing that those funds continually go back into feeding those not-for-profit organizations, which speaks to the point around assets and maintaining assets. So those assets have to be maintained in a non-profit forever, otherwise, you could set up this kind of a business, have it work for three years, make some money off of it, and then turn those assets over in some other way.

What I would hope from the legislation is that it offers support to the non-profit sector, to those of us in particular who do work that feeds the public, that is often deemed charitable work—if we have charitable status, it would follow along those lines—and that it would strengthen us.

I will stop there and take any questions. Again, I'm very pleased to have had a chance to—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gasparini. We have about a minute or so per side, beginning with the PC caucus. Mr. Arnott.

Mr. Ted Arnott: Ms. Gasparini, thank you very much for offering the perspective from Sudbury on Bill 65. I would just ask, are you satisfied with the consultation process that the government has undertaken with respect to this bill?

Ms. Janet Gasparini: Yes. I certainly know you were willing to come to the north and to three other locations. Probably through no fault of your own—maybe a little bit later in the year, in September, we might have been able to get a few more people out. But I am satisfied and feel that, locally here, I've been able to garner information from enough of my colleagues that I feel quite comfortable speaking on their behalf.

1010

Mr. Ted Arnott: Would you say that you support the bill as it's currently constituted?

Ms. Janet Gasparini: I support the bill with the recommendations that the ONN is suggesting. I know that, overall, they have said that it's good legislation, and we think it is good legislation, but the changes that are being suggested are very, very important.

Mr. Ted Arnott: Thank you very much for your presentation.

Ms. Janet Gasparini: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, ma'am. We've got the ONN submission in front of us—I was reading through it while you were talking, connecting your comments with some of its submissions, particularly the "valuable" one. I'm interested in hearing, when we get to clause-by-clause, what the government says in response to the points you made.

Ms. Janet Gasparini: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. To the Liberal caucus: Mr. Johnson.

Mr. Rick Johnson: I just want to echo what Mr. Kormos said. I was looking through the presentation as well from the Ontario Nonprofit Network, and I look forward to getting through the whole thing that's before us today.

I thank you for taking the time to make your comments, and I appreciate what you've had to say.

Ms. Janet Gasparini: Thank you. I know you've got a room full of people with lots of expertise and knowledge, so know that they are well supported in the field.

Mr. Rick Johnson: Thank you.

Mr. Peter Kormos: You're surely not referring to the elected members.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you, Ms. Gasparini, for your deputation on behalf of the Social Planning Council of Sudbury.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Ms. Eakin and Ms. Manwaring of the Ontario Nonprofit Network. Welcome, and please introduce yourselves.

Ms. Lynn Eakin: I'll raise it up so you can see me.

The Chair (Mr. Shafiq Qaadri): Sure. And I invite you to please begin now.

Ms. Lynn Eakin: Lynn Eakin—Susan Manwaring is not with me today. I'm speaking on behalf of the Ontario Nonprofit Network, which Janet Gasparini just referred to.

I want to start by really stressing to you the critical importance of the non-profit sector. Until very recently, we've been disparate sectors. We've had the arts sector, the environment sector, the social services sector, the social housing sector and the social justice sector. Under

ONN, what we've managed to do is bring all of those mission-driven sectors together to take a look at the infrastructure under which we all work.

The catalyst for that was indeed this bill. When the consultation papers first came out, we discovered that nobody was responding to them. Nobody was responding because it was nobody's business. Each sector was very focused on their particular mission, and that's the strength of our sector. The strength of our sector is that we are mission-driven. We're absolutely committed to the public good.

This bill is absolutely critical, and it's absolutely critical that we get it right. It's been over 50 years since it was revised. There's been a sea change in the working conditions out in the sector, so it's extremely important that we get the kinds of changes that we want to be able to move forward.

Social enterprise is a growing component of our sector. The ability to earn funds and to try and make our own way, as government funding decreases and as charitable donations stagnate, is critical, especially for the small and medium-sized organizations—that they be able to forge their enterprises in their local communities.

Just to give you a sense of the scope, we're talking about 46,000 different organizations coming—not all of them will be under this legislation; I think there's about 7,000 that are federally incorporated. Of those 46,000, we estimate that 40,000 exist to serve the public good. The public benefit corporation component of this bill is extremely important, because these are organizations that touch absolutely everybody in their communities. We aren't at the point yet where when you ask somebody, "When was the last time you benefited from a public benefit corporation?" they would say, "Well, I went to the theatre last night" or "My mother-in-law is getting home care" or whatever. It touches absolutely everybody.

That's who we are and that's what we've been doing. So what we do is we pull together people from across all those sectors and have them discuss what we need and where our common issues are. What we've discovered as we've consulted—our brief has gone not only to you, but it's gone out broadly across the sector, and we've held teleconferences to discuss with people what's happening. Janet's right: If it wasn't in the depth of summer, you would be travelling around the countryside.

We absolutely have to have a strengthened definition of "public benefit corporation." It is not all right to define us by where our money comes from, the fact that we get \$10,000—you don't do that with the Ford corporation; you don't do that with any other group. It's not all right to define us by where our money comes from. What defines us is what we do and what we do in communities every single day.

We really want an opt-in. There are organizations in this province that get no public money, that have no charitable money, that serve people who are vulnerable and work tirelessly in their communities, and they want to be public benefit corporations so that the people in their

community can know that they are there for them, for the public good.

Accompanying that, we have to have a permanent asset lock. The public trust is critical to us. If we don't have a permanent asset lock, then if people give money to us and we can last out three years and then flip it, that's not okay; that's not what we intend. The sector itself wants this permanent asset lock so that assets in—the charities already have it, and 60% of our membership are charities as well, but the other 40% are not charities and they want that kind of assurance for the public. The public, when they participate, when they contribute to a public benefit corporation, want to know that that money's going to be there for their grandkids and their grandkids' grandkids, that it's going to be in that community. We absolutely have to have a public asset lock.

The other thing that we really, really need is community bonds. The co-operative sector can issue a community bond; in Nova Scotia, they can issue community bonds. What that allows is—we want to be able to issue, because we have a tremendously supportive membership. There are people committed to our organizations throughout Ontario and they would love to be able to have a bond in their local community centre or their local social enterprise. We really want that ability in this act. We can use the same wording that's in the co-operative act. It works in the co-operative sector; it will work for us. If you staff up the existing regulatory review for the co-operative sector, they can do us as well. We've got the infrastructure there. We just want to be included. That, we think, is absolutely critical, because raising capital in this sector is extremely difficult and this is a way that we can do it reasonably. Moreover, we'll get the commitment of communities in that endeavour.

The other big piece—I won't go into it because a lot of speakers coming today will cover it, but the thing you need to understand about this sector is that it varies, from the little start-up of two people who have got a great idea to big, multi-million dollar organizations such as hospitals, the art gallery and those organizations, so one size does not fit all. What we need, and what we're going to be asking for today, is flexibility. Whenever you say we must have proxies, or no more than one third of directors can be officers, think about your local women's shelter. Typically, all officers in little organizations are directors. That means three: You've got a president, secretary, treasurer. That means you have to have a minimum board of nine. Well, in some of the littler communities and littler organizations, they'll work with a board of six. To have to have nine people on your board is extremely onerous. That's what we say: It isn't appropriate to—where possible, allow the individual organizations to set their own terms in their bylaws so that proxies can be flexible and whether officers can be on the board is flexible. We really need that kind of flexibility.

I think I'll stop there.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Eakin. Really, less than a minute or so per side, beginning with Mr. Kormos.

Mr. Peter Kormos: Thank you so much for giving a presentation that is honed down, precise and specific. Sometimes that doesn't happen here.

I find particularly interesting, in the written material that you provided the committee, the asset lock issue. Perhaps Mr. Fenson can help us in terms of identifying what happens in other jurisdictions with respect to that. Obviously, we'll expect, come clause-by-clause, the government to explain why it picked three years, where that model came from, and what it says in response to the argument that's being made with respect to it. Thank you, ma'am.

Ms. Lynn Eakin: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

1020

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised a number of very good points and I look forward to investigating them further. The limit on the number of directors, a third of the officers, is an interesting point you raise there. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation. We appreciate it very much.

I see that you've received the endorsement of the East Wellington Community Services organization; they sent in a written brief. They're from my riding. They do important work too.

You mentioned that in the province of Nova Scotia community bonds are issued in the non-profit sector. How long has that been the case? And is it a model upon which the province of Ontario could move forward?

Ms. Lynn Eakin: Oh, I think it would be excellent. I'm not sure how long it's been. I would say at least five years I've sort of known of it. It also has a tax advantage, so we love that. We just want that—that would be great.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott, and thanks to you, Ms. Eakin, for your deputation on behalf of the Ontario Nonprofit Network.

CANADIAN ALTERNATIVE INVESTMENT CO-OPERATIVE

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Ms. Coates of the Canadian Alternative Investment Co-operative. Welcome.

Ms. Beth Coates: Thank you, Chair and members.

The Chair (Mr. Shafiq Qaadri): Please begin.

Ms. Beth Coates: My name is Beth Coates, and I would like to speak specifically to the community bonds element, which has been presented in the ONN brief.

As I said, my name is Beth Coates, and I am the financial manager for an organization called the Canadian Alternative Investment Co-operative. This is a federally incorporated co-operative of registered charities, primarily religious communities, who pooled their resources together over 26 years ago. We have assets of over \$7 million to do exactly this kind of investing, because then

it was recognized that this sector didn't have the financial resources that it needs. Basically, by pooling their resources together they could have standard operating procedures, they could evaluate risk and they could manage their investments.

We have had a really great career. In 26 years I'd say about 70% of our investing is done here in Ontario. We've put over \$16 million out and we've had less than a 2% default rate. So we have been very successful in investing in this sector.

Primarily what we do is provide first and second mortgages to food banks, shelters and various types of housing—co-operative housing, affordable housing, transitional housing. In addition to that, we provide other loans for leasehold improvements, cash flow requirements and working capital loans, again to non-profits. We also, although not so much in Ontario, have been a big supporter of community loan funds.

What have we learned through these 26 years? Firstly, this sector needs money. The first question on our application is, "Have you been to a conventional lender and have you been turned down?" So they cannot come to us unless they have not been able to get financing through a conventional lender. A lot of our borrowers tell us that the banks have said, "Yes, we will do it, but your board of directors all have to sign personal guarantees." Now, here are people volunteering to have a non-profit exist in their community, and the last thing they should be asked to do is put their house on the line so that it can get financing. Or banks have a tendency to say, "Look, we are not interested in taking a mortgage on a non-profit because the blowback that would occur if we ever had to foreclose would not be pretty. You couldn't buy that kind of bad publicity." So they are very hesitant to get involved.

Secondly, what we have found is that it really strengthens the non-profits that have borrowed from us. I guess this is maybe my strongest message. By being able to have access to financing—as I say, in most of our cases we're talking about mortgage financing. It's just like a family that buys a house: Now they have equity in the house, they know what their occupancy costs are going to be and eventually they pay off the mortgage. When the groups pay off their mortgages—actually, CAIC primarily does 15-year term mortgages, so that's not forever—those resources that they would have used to pay rent and pay the mortgage then go right back into their mission. The other point is that when they start to build up equity, they can leverage that equity to get other components of their mission done. They can use the equity that they've built to perhaps get some more financing to do other things. This, then, allows them long-term planning and long-term stability that living on day-by-day, grant-by-grant, year-by-year sources of income doesn't allow them.

Thirdly—I think I alluded to it with the 2% loss rate—we have found this sector to be remarkably low-risk. By and large, that's because non-profits have multiple sources of income. Many of them do social services for a

fee. They have fundraising, they have donations and they have other sources of government grants. The other thing we have found is that the leadership in this sector—Lynn alluded to it as well—is remarkably committed and stable. You wouldn't be in the non-profit sector unless you were. What we find is, in looking at all of our investments over a long period of time, their financial results are remarkably consistent and predictable.

So what do we believe going forward? We believe that this sector could benefit by even more capital. There are probably three sources of capital that it now has, all of which have limitations. One is going out and getting donations, but many of them just need those donations for their programming, and it's difficult sometimes to get donors to give money for bricks and mortar, if you will. The second is conventional financing, which, for the reasons I discussed earlier, can be very difficult. Thirdly, although many of them get government grants, very little of that grant money is usually available for capital. It is usually program-directed and program-specific.

What we think would be the best thing to happen now is to create some kind of regulated market. This would allow the non-profits to understand what the investor's needs are and the tools that are the best way to talk to investors, and it would allow investors a standard format to understand and assess risk if they're going to invest in a non-profit.

We really feel that the community bond proposals in the ONN brief are exactly the answer to this. It would provide a new source of funding for the sector. It would allow large investors, such as pension funds, to get in, but more importantly, it would allow individuals—because community bonds could be structured so that it could be very small amounts of money—to invest in the non-profits that are in their communities.

What this would do is, by having a standard format, it would reduce the costs of going and getting capital. The prospectus would be set: Everyone would understand what the rules were and some expertise would be developed in completing and filing these prospectuses. The net result, in my view, is that the resources, which are scarce—these financial resources are scarce—would then be allocated to the most worthy, if you will, of the non-profits. We will make sure, to the extent that community members are willing to invest, that they're investing in the right non-profits, where we are going to get the best return for our dollar.

This sector is non-profit, but it's not non-results. I ask the committee to consider this proposal, because this is really the best way of strengthening it, building it and ensuring that there's a social dividend for all Ontarians. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Ms. Coates, for your presentation. We'll begin with the Liberal side—less than a minute. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised some very interesting ideas here. Thank you for the work that you do of providing funding for the non-profit sector. I'm sure it's extremely

valuable. Thank you for the things that you proposed here.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott.

Mr. Ted Arnott: Would you recommend that the income that's earned on these community bonds, if they were set up, be free from tax, similar to the situation in Nova Scotia, as we heard from an earlier presentation?

Ms. Beth Coates: That certainly would make them more attractive. Having them as RRSP-eligible might be another solution. But that's also money out of the government's coffers—right?—to the extent that you give a tax break. That's really a separate consideration, in my view.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, ma'am. I appreciate your participation.

Ms. Beth Coates: Our sector: What can we do to make this happen? That's sort of what I leave you with.

1030

Mr. Peter Kormos: It won't happen unless the Premier's office wants it to happen, and that's where you go.

Ms. Beth Coates: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. Coates, for your deputa- tion on behalf of the Canadian Alternative Investment Co-operative.

PIVOTAL SERVICES OF LONDON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Charles of Pivotal Services of London.

Welcome, Ms. Charles. I invite you to please begin now.

Ms. Katherine Charles: Thank you. I think the best reason I can say I'm here is because I'm actually quite an expert in non-profits running commercial activities. I currently run one that's self-sufficient, and in order for you to understand where I'm coming from in my support of the changes we're looking for in Bill 65, I'm just going to tell you a little bit about our history and how we became self-sufficient.

First off, we were incorporated as a non-profit back in 1994. We were completely dependent on government funding at that time, and our mandate was to assist people in obtaining sustainable employment. When we first started, I think the first commercial revenue we got was from car washes, and then I understand there was a store opened up in a hospital. Today, as I know the company, we do contract packaging and assembly work for manufacturers in London and the surrounding area, and we've been doing so under my leadership for the past six years.

Of course, in saying that we're self-sufficient, that means zero government-funding dollars and zero philanthropic dollars. The last non-commercial funds I saw for

our non-profit operations—still functioning under the same mandate, so still serving our membership community—were in 2003, when we won the Drucker award for innovation. That's the last time. That was under previous management. Since it's been under me—to tell you the truth, rather than chasing after \$10,000 worth of government funding, it's a lot easier for me to find \$10,000 worth of commercial sales.

The limitations of this bill, as it exists right now, would limit me to the fact that once a year I would have to stop everything to find \$10,000 worth of funding in order to comply with the act. I would argue that intent of the non-profit corporation, the public benefit corporation, is the necessary key and that we do not have to demand that they have a source of revenue that could otherwise go to other needy organizations. That would be my first point.

For the second point, I'm going to get further into the history. I ended up running the operations on a daily basis because we were close to bankruptcy. Previous management had the board bail and we were faced with a table of five creditors. As an employee, I came forward with a proposal to keep operations going, to keep assisting the 30 clients who were already in our care. Amazingly enough, we convinced the creditors to give us an opportunity to try. So we functioned for a full year before we found volunteers courageous enough to step forward onto a board of directors—a volunteer position—that was over \$500,000 in debt. Try asking your friends to do that; it's very difficult.

At the time, there were few resources for me to find out the extent of my liabilities. I presumed the worst: I presumed that if I didn't succeed in repaying the creditors, I potentially would lose all my assets, and probably my marriage in the process. It was a hard weight to carry, but we saw it through, and actually, I faced it one more time. I lost my board of directors again in 2009, and luckily have quickly put together a fabulous new board of directors that is fully supportive of this.

Now, why bring up the boards going defunct? Because there's very little guidance for the person in charge of operations in how to conduct themselves in moving forward. I did notice that in your section 29 you have that the main operator can be a director in the case that the board resigns or goes defunct. However, according to the act, you need three members. That's only one. So we need some more information there, some more instruction and guidance in regard to what we should be doing in relation to that.

You should also know that over the six years that I've been running it, I've had three commercial enterprises approach us about purchasing us. Non-profit would go out the window. Those social dollars that the government invested in us, once upon a time, would go into someone's pockets—all that hard work, all the tax dollars.

I honestly think it's due diligence on our part to ensure that public benefit corporations have to stay public benefit corporations, that if they're going to dissolve, those funds go into another public benefit corporation. If the

government and the taxpayers are going to fund start-up social enterprises, in regards to this, they're earmarking that money to go to a social purpose, and if we allow public benefit corporations to opt out at any point, those funds have been redirected and we have been misguided and we have not done our due diligence to ensure that we have dedicated those funds on a permanent basis. That would be another main issue.

I also want to voice my support for community bonds. What I find is that the only way I have an opportunity to obtain financing is based off of our receivables. I don't have any products; I don't have an asset; I don't own a building. I've got racking; I've got a pallet wrapper; I've got a forklift truck. Other than that, I have 30 clients who are existing in poverty and doing their best to get out. We have long-term cases, short-term cases; you name the gamut. We've got over 55 aboriginals, at-risk youth, people fresh from the penitentiary system. I've got abusers working beside abusees. And we're achieving a social purpose. They are coming together in supporting this.

So I'm very passionate on the four points I'm talking about. I'm just going to reiterate them and then, if you don't mind, we can open up some questions about maybe what you have heard or how you interpret this bill in regards to how the main operators should conduct themselves in relation to a board dissolving.

First off, the public benefit corporation: It is important that we remove the source-of-revenue stipulation and concentrate on the intent.

Community bond support is definitely a smart idea to look into; it's a great way for us to be able to raise funds that are much needed.

Being a public benefit and not able to switch: Once you decide to become a public benefit corporation, there's no going back. Trust me, there were nice carrots dangled in front of me by these commercial enterprises. Fortunately, I bumped into someone who had the integrity that—I promised to see the creditors repaid, and I have; we're in the black as of this year. So there is progress out there in relation to that.

So I guess what I would like to know from the panel here is, what do you understand the main operator should do in relation to a board becoming defunct? What is the proper procedure to follow? I think we might be able to relate this to, are employees allowed to sit on the board? That is quite a contentious issue. I have pros and cons against it. I do think, in all, that it should be allowed to be decided in the bylaws. Maybe put a maximum on it of one-third or two-thirds employee representation, and say for a time period. You know, I could easily have solved my board problems if I could have gone to my membership, which are our employees, and said, "I need three members," and I would have had those memberships before the previous board resigned.

So I've been caught in loopholes, and I've just been lucky that the government, in communicating with them, has been very supportive. But at the same time, I don't think we're all clear on what should be done when

directors resign without the due diligence of ensuring that the operation is either closing correctly or continuing operations correctly.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Charles. We have 20 seconds per side. Mr. Arnott.

Mr. Ted Arnott: Thank you, Ms. Charles. You've raised some very important issues, and I would encourage the government members to take them back.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Kormos.

Mr. Peter Kormos: Mr. Johnson, you could have my 20 seconds.

The Chair (Mr. Shafiq Qaadri): Mr. Johnson.

Mr. Rick Johnson: I appreciate the issues that you've raised; I've written them down here. The whole purpose of this is to provide some clarity on the new bill, and hopefully we'll be able to do that for you. Thank you.

Ms. Katherine Charles: Great.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks, Ms. Charles, for your deputation on behalf of Pivotal Services of London.

1040

SIKH SOCIAL AND EDUCATIONAL SOCIETY OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Gurdev Singh Sangha, representative of the Sikh Social and Educational Society of Ontario.

Remarks in Punjabi.

The Chair (Mr. Shafiq Qaadri): Mr. Sangha, I invite you to please begin now. You have 10 minutes.

Mr. Gurdev Singh Sangha: Good morning, ladies and gentlemen. First, I would like to thank you for allowing me to share my views regarding Bill 65 with you. My name is Gurdev Singh Sangha and I reside in Kitchener, Ontario. I hold a Ph.D. from the Punjabi University, Patiala, in Punjab, India. My thesis examined the concept and institution of gurdwara, rendering my scholarship rather relevant to the scope of this bill, and especially to the concerns that I will put forward today. My dissertation is currently written in Punjabi, but its English translation will be available by the year-end.

I am also the president of the Sikh Social and Educational Society of Ontario. The objective of our society is to make Sikhs and other communities more aware of Sikh heritage, culture, religion and history. The society is a pioneer in holding seminars and conferences and in leading community projects regarding these topics.

Gurdwara is an institution for learning the Sikh way of life as described in the teaching of Guru Granth Sahib, which is the Sikh scripture. Gurdwaras have historically played a significant role in nation-building among Sikhs, both in India and among diaspora communities. In fact, they remain the focal point of most Sikhs' religious, political and social lives. But the irony of modern gurdwaras is that many are becoming battlegrounds for

greedy, power-hungry individuals in the Sikh community whose sole aim is to keep government under their control by fair or foul means. They have no interest in the religious mandate of the gurdwara, but rather only in the power over others that its control can afford them. I personally have seen and experienced this type of power seizure and recall an abuse happening during my involvement with the gurdwara management and Sikh affairs in general over the past few decades.

The situation in many gurdwaras in Ontario is becoming ugly, out of control and violent. The increasing lack of accountable leadership is causing gurdwaras to lose focus of their original aims. Since Kuldip Samra's case in 1982, the Osgoode Hall shooting which resulted in the murders of two men, Oscar Fonseca and Bhupinder Singh Pannu, we have seen no change for the better. Recent events in the Sikh Lehar gurdwara and the Guru Nanak Sikh Center, both in Brampton, also provide good examples of the condemnable violence becoming, unfortunately, prevalent in the gurdwaras.

Many gurdwaras have their own bylaws for guidance, but once factions gain control over gurdwara management, they often wilfully disregard bylaws and any other regulations in place, because they are not held accountable to any other organizational body. Their own interpretation, or misinterpretation, of bylaws and regulations is held by them to be the only correct one, despite the protest or opinions of other members. Consequently, many irresolvable gurdwara disputes end up in Ontario courts of justice. Hence, millions of hard-earned dollars donated to gurdwaras by ordinary Sikhs for community development end up paying for legal fees instead, and valuable court time is wasted on disputes that could otherwise be avoided.

I am suggesting that the following three measures, if included in Bill 65, would increase accountability within the gurdwara management system, and thus help prevent the further creation of unnecessary litigation, corrupt gurdwara leadership, and undue violence:

(1) Restrict gurdwara membership fees to an upper threshold of \$15 or less to stop the exorbitant charges, upwards of \$2,000, that some gurdwaras are imposing.

(2) Hold directors accountable for not following bylaws or failing to discharge their fiduciary duties.

(3) Add a subsection (6) to section 51 of Bill 65 in respect of gurdwara governance only, dictating that conflicts arising with the gurdwara must first be taken to an arbitration board whose decisions shall be binding, since gurdwaras are operated under the provisions of the Corporations Act of Ontario.

We are asking you to give serious consideration to our plight.

Once again, I would like to sincerely thank you for your time today.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Kormos, one minute.

Mr. Peter Kormos: I'm fine, Chair. Thank you very much, sir.

The Chair (Mr. Shafiq Qaadri): To Mr. Johnson.

Mr. Rick Johnson: Thank you, as well, for your presentation.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: I just want to thank you very much for your presentation. It was very insightful and very helpful to this committee.

The Chair (Mr. Shafiq Qaadri): Thank you for your deputation on behalf of the Sikh Social and Educational Society of Ontario.

SOCIAL PLANNING COUNCIL OF CAMBRIDGE AND NORTH DUMFRIES

CAMBRIDGE COMMUNITY INNOVATION CENTRE

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward: Ms. VanderGriendt and Ms. Ranney, on behalf of the Social Planning Council of Cambridge and North Dumfries. I understand you're speaking by teleconference.

Ms. Ranney and Ms. VanderGriendt, you're there?

Ms. Laura VanderGriendt: Yes, we are.

The Chair (Mr. Shafiq Qaadri): I'm Dr. Qaadri, in Toronto, Chair of social policy, as you know. We will give you 10 minutes for your presentation. The committee is anxiously awaiting your remarks. Please begin.

Ms. Laura VanderGriendt: I'm Laura VanderGriendt, social planner, representing the Social Planning Council of Cambridge and North Dumfries.

The Social Planning Council of Cambridge and North Dumfries endorses all elements of the ONN submission to the Standing Committee on Social Policy pertaining to Bill 65, dated August 12, 2010, including the recommended amendments.

We support the new designation of a public benefit corporation, with the proposed definition changes outlined in the ONN submission, as this new designation broadens the scope and clarifies the role and relevance of the sector.

We specifically wish to highlight how some of the amendments proposed in the ONN document are of particular importance to our organization.

Firstly, the issue of directors' liability: As an organization that relies on volunteer board members, we support the recommendation to include a liability shield for directors and officers of non-profit corporations in Bill 65. This would greatly improve the ability of non-profits to attract board members to the organization without fear of undue liability.

Secondly, I'd like to highlight the recommendation pertaining to the standard of financial review. For public benefit corporations with revenue under \$500,000, lowering the revenue level at which PBCs can dispense with an audit is an undue economic hardship for smaller organizations with relatively low levels of revenue. We support the ONN's recommendation that the level should remain at \$500,000, in line with the Canada Revenue

Agency recommendation as noted in the ONN submission.

1050

At this time, my colleague Pat Ranney will speak to a project that the social planning council has been involved with and the implications for this initiative.

Ms. Pat Ranney: I'm working on a specific project called the Cambridge Community Innovation Centre, and it is presently under development, in conjunction with the Cambridge social planning council and a committee within Cambridge which includes the mayor of Cambridge. Basically, the concept is a multi-tenant shared-services centre which is designed to facilitate and create a culture of innovation and new ideas among social entrepreneurs, directed at improving both our local and global community. The centre's goal and business model is to become a self-sustaining operation where any of the incremental profits generated go back into supporting the centre, the clients it serves and also the broader community within Cambridge. As you can appreciate, this type of centre requires significant amounts of upfront capital, and it requires tools to assist it in operating like a socially responsible business to be successful.

These areas in particular are why we strongly support many of the recommendations being put forth in Bill 65 and specifically those which the ONN has put forth in their presentation and submissions. I'd just like to take a minute to highlight a few that are of critical importance to our concept.

First, the designation of a public benefit corporation: We strongly agree with the ONN position that the definition of the PBC be amended to allow for a self-selection test and the removal of the \$10,000 government funding criteria. From our perspective as a social enterprise and an organization that would fall into this area, we feel that the defining criteria for what makes a public benefit corporation is the fact that we wish to serve the interests of the public community, and that is the most critical criteria which we should be measured upon. Also, this type of definition is in alignment with other countries such as the US and the UK, which have done much work in the area of these hybrid-type social enterprise organizations.

Secondly, on the matter of the asset lock: We fully support the need for a permanent asset lock for these types of organizations versus the temporary asset lock as stated in the bill presently, and we feel that all assets should be fully retained within the public domain. Again, this is consistent with the UK definition of these types of enterprises. It also enables the creation of a brand recognition and designation, where it becomes very clear to donors and members what the terms of all the assets are that are being owned and managed by these organizations.

Third, the ability to access community bonds: We fully support the ONN proposal for the enabling of this legislation for issuing community bonds similar to the Co-operative Corporations Act. Our organization is a perfect example of the type of entity that would like to

consider this type of option to help address larger capital financing where there is significant debt financing required. Also, we view it as being important that potential investors of such bonds know that there is appropriate governance and guidelines being followed so that they may be comfortable with the risk-versus-return equation, in addition to the giving nature of these types of investments. We would also like to encourage the government to consider and evaluate other options and creative ways to assist non-profit organizations which have significant capital financing, one example being such options as the small start-up flow-through tax incentive programs which have been in operation for many years in the oil, gas and mining sectors.

Last but not least, we want to fully endorse the ability of NFPs to engage in commercial revenue generation activities. Moving forward, this is critical to both the long-term and the short-term viability of many non-profits, that they have the opportunity to engage in social and commercial activities as long as the revenues and profits that they generate are used and reinvested to public good. For ourselves, specifically, we want to look at and become a self-sustaining, income-generating operation which can be of benefit to both the community we serve and to those who are within the broader community. To achieve this effectively and efficiently, we feel we need to have ongoing, well-managed and planned access to various revenue sources, including those that we create and manage responsibly ourselves.

On behalf of Laura and I, I would like to thank you for providing us with this opportunity to provide input into this very important bill.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About a minute per side, beginning with Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for raising the issues that you have. We're seeing a consistency here. Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott?

Mr. Ted Arnott: Thank you very much for your presentation. It is sincerely appreciated, and I would hope that—and encourage—the government members will get behind some of these ideas and bring them forward.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Mr. Johnson is very astutely noticing a theme, and perhaps even an agenda, and perhaps some coordination on the part of presenters, which is not a bad thing. I think they're points well made, and I'm hopeful that we'll see some amendments from the government come clause-by-clause, particularly with respect to the protection of assets.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. VanderGriendt and Ms. Ranney, for your deputation on behalf of the Social Planning Council of Cambridge and North Dumfries.

SIKHS OF CANADA

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Manohar Singh, the executive director of the Sikhs of Canada, and colleagues.

Sat Sri Akal. Welcome, gentlemen. I'd invite you to please be seated. If any of you others will be speaking, please do identify yourselves to the committee. I'd invite you to please begin now.

Mr. Manohar Singh: Good morning. This is our submission to this special committee on social policy, Bill 65. On my right is Amitoj Singh; he is a youth volunteer with the Sikhs of Canada. And on my left is Govind Singh; he is also a youth volunteer with the Sikhs of Canada, but I will be the only one speaking.

Good morning, once again. The gurdwara, the Sikh place of worship, is a religious, political, cultural and social centre of the community. The first gurdwara in Ontario was established in 1970. In the last 40 years, the community has built gurdwaras in all major cities and towns but they have not built a single community centre. The simple reason, as I stated earlier, is that they consider the gurdwara as the centre of all their activities.

Almost each member of the community contributes in the building of the gurdwara, but each member does not have a say in the administration of the gurdwara. This is the root cause of incidences of large-scale violence in gurdwaras. In fact, all violence in the gurdwaras is directly related to the administrative structure of the gurdwara.

The present-day structure allows few individuals, groups or families to control this important institution. This does not fit well with the large segment of the community and, as a result, first, various groups or individuals discuss these issues, then they argue about these issues, and when nothing gets resolved, unfortunately, violence takes place.

A simple search on Google highlights all the violent incidents. This is just a sample. You see appendix A in our submission. As we speak, people are in jail because of violence in gurdwaras. Another write-up, appendix B, is entitled "Sikhs Kill Each Other at Toronto Gurdwara." All of this is very troubling and it tarnishes the image of our community.

1100

As you can see, we are a very visible community. Sikhs are very identifiable. This violence in the community affects each and every Sikh, but unfortunately, the community does not have a mechanism to discuss, develop or enforce any practical measures. They do not have any solution to any of these problems.

Today, the community is facing the same problem related to the administration of gurdwaras as they were facing 40 years ago. They have not found—or, let us say, they have been unable to solve their problems. So who can solve the problem? In a phrase, the government.

We enclose another write-up, appendix 3, dated May 14, 2010, which appeared in the *Globe and Mail*. The

title is "Sikh Gurdwara Management in Canada—Looking for Solutions." This article talks about, number one, "What are the loopholes in the current system governing gurdwaras that are leading to violence?" Number two, "What can the government do?" Number three, "What was the mood like at the conclave?" And the last one, "Looking ahead, what is your agenda?" The last sentence of the same article is, "We hope that the government will intervene to put in place an act which streamlines the functioning at Sikh shrines. The Sikhs don't want a repeat of what happened last month."

In view of the above, we submit the following two major issues: Open membership in the gurdwaras and binding dispute resolution mechanisms are essential to solving the issue of gurdwara violence in our community. Every Sikh must be able to take membership without any artificial restrictions. Historically, this is how Sikhs have participated in the management of the gurdwaras.

A binding dispute resolution mechanism is urgent and important. This is the only way to stop ongoing and non-stop waste of charitable donations of the congregation. In the last 40 years, nearly \$10 million has been wasted on these litigations. To achieve the above stated, we recommend that a special committee be set up to examine these and other related issues and that regulations be developed under section 207 of this act to address these important issues affecting the Sikhs of Ontario.

In the end, let me add, if we do not address this issue, if we do not find solutions and if we fail to act, we, the community, and you, as elected representatives of this society, will be failing in our duty. To our young and coming generations, we will be passing on a history filled with bitterness and violence. Let us work together to build a progressive and peaceful Ontario.

All of this is respectfully submitted. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We now invite Mr. Arnott to please begin the questioning.

Mr. Ted Arnott: Ms. Munro has a question.

The Chair (Mr. Shafiq Qaadri): Ms. Munro. About a minute or so per side.

Mrs. Julia Munro: Yes, thank you very much.

In the package that you've provided, at the very end there's an excerpt there about the need for looking at solutions that obviously relate to the issues that you've raised. In your submission, you referenced section 207, and I'm just wondering if you have had an opportunity to look at very specific areas of sections 207. You referred to a committee being set up, but have you got any specific suggestions on section 207, on regulations, in the bill?

Mr. Manohar Singh: We have not gone to that stage to develop a full-fledged, proper regulation or a mechanism which we can submit, but we can work on it and submit to this committee. What we are proposing and what we're saying is that, in general—

The Chair (Mr. Shafiq Qaadri): I need to intervene there. Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I'm fine, thank you, Chair. Thank you, gentlemen. Mr. Johnson can have my time.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. If you wanted to answer the question that Mrs. Munro had asked, continue.

Mr. Manohar Singh: I just want to add that membership is one-to-one selected or rejected. This is not how the community is going to be acceptable to the notion of membership. It has to be that each and every person should be able to participate in electing or appointing a committee to run the institution, and the only way that they should be able to participate is maybe by direct voting or direct show of hands or anything of that nature. That is what needs to be done.

Mrs. Julia Munro: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you, Mr. Singh, for your deputiation on behalf of the Sikhs of Canada.

GURSIKH SANGAT HAMILTON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Mr. Manjit Singh Sahota of GurSikh Sangat Hamilton.

Remarks in Punjabi.

Mr. Peter Kormos: I've got to tell you, Chair, if I hear you take orders to lock and load, I'm out of here.

The Chair (Mr. Shafiq Qaadri): To?

Mr. Bob Delaney: It's okay, I'm following it.

Le Président (M. Shafiq Qaadri): Il y a beaucoup de langues en Ontario, mon ami.

Mr. Singh, please begin.

Mr. Manjit Singh Sahota: Thank you, and good morning. Just excuse my accent and my grammar, because it's a second language to me.

I, Manjit Singh Sahota, am presenting suggestions for Bill 65 on behalf of GurSikh Sangat Hamilton-Wentworth, 200 Old Guelph Road, Dundas, Ontario. The secretary, Mr. Jasbir Singh, is also present with me here.

The gurdwara, the Sikh place of worship, is an integral part of the Sikh community, and problems of gurdwaras have long-lasting effects on the Sikh community. About 99% of the community is against the persons who are controlling the gurdwaras by non-democratic and anti-Sikh means. To achieve absolute control of gurdwaras, they cancel existing memberships and use the restrictions on membership, keeping the membership fee very high and banning Sikhs from gurdwaras. After absolute control of gurdwaras, numerous times management insults Sikh worshippers who question their handling of money and anti-Sikh religious practices performed in the gurdwaras. Disputing parties also do not hesitate to fight and use weapons in and out of gurdwaras.

Gurdwara management disputes have very high consequences. In 1982, two persons were killed and another crippled for life in the Osgoode Hall courtroom shooting over management dispute of a gurdwara at Pape Avenue.

Since then, many times fighting has taken place. Millions of dollars from gurdwaras are spent in courts to keep absolute control of the gurdwara by a few dozen persons in Ontario. Management disputes have plagued 99.9% of gurdwaras in Ontario, and the majority of the time, conflict is about management's absolute control of gurdwaras.

Gurdwaras are built with the help of the Sikh community at large, and we believe the donors are entitled to question the management about the operations of the gurdwaras. We believe that integrating the following suggestions in some form in Bill 65 will help to resolve the above-mentioned problem of absolute control of gurdwaras:

(1) Membership should be open to all Sikhs in the vicinity of the gurdwara.

(2) Conflict resolution should be handled with a community-based arbitration body, whose decision should be binding to disputing parties. This mechanism of conflict resolution can save taxpayers money by saving the court's time and also that of the Sikh community.

(3) The membership fee should be nominal, so every Sikh who wants to can afford to become a member of a gurdwara in their vicinity.

(4) The "banning from gurdwara premises" clause should be defined better so it cannot be used by the management for their own personal interest of absolute control of the gurdwara.

(5) Cancellation of existing membership should not be allowed.

(6) The gurdwara should not be registered as a trust; it is public property.

We believe it is time to resolve the problems of gurdwara management in Ontario, which Sikhs have been facing for the last 28 years.

Thank you sincerely for allowing me to present here.

The Chair (Mr. Shafiq Qaadri): Thank you very much. You've left a generous amount of time, Mr. Sahota, for questions, beginning with the NDP—about two minutes per side.

1110

Mr. Peter Kormos: I'm fine, Chair. Thank you very much, gentlemen. Your comments are consistent with two of the other presenters around the very same issue. It's interesting.

Mr. Manjit Singh Sahota: I think the problem is the same: Every Sikh is feeling like us. You already have noticed that.

Mr. Peter Kormos: I wonder perhaps, Chair, if Mr. Fenson could tell us what specific things might be warranted to address the goals and grievances that are being expressed surrounding the Sikh community.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos; your comment is noted.

I'll begin with the Liberal side. Mr. Johnson?

Mr. Rick Johnson: Once again, thank you for presenting. I've been taking good notes here, and once again there is a consistency with the other presenters who have

come forward, so thank you for presenting your positions.

Mr. Manjit Singh Sahota: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott or Ms. Munro?

Mrs. Julia Munro: Yes, I just wanted to echo the thanks for your presentation. Obviously, the consistency of the message by you and other presenters certainly gives this committee something to look at in terms of changes that might be offered and where specific ideas could come forward from your own community on recommendations.

Mr. Manjit Singh Sahota: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Mr. Sahota, for your deposition on behalf of the GurSikh Sangat Hamilton.

ONTARIO FUNERAL SERVICE ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter to please come forward: Mr. Parent of the Ontario Funeral Service Association.

Thank you, Mr. Parent. I invite you to please begin now.

Mr. Brian Parent: Thank you. Mr. Chair, honourable members, good day. My name is Brian Parent. I'm the co-chair of the legislative committee and past president of the Ontario Funeral Service Association. I've been in funeral service for 30 years. I'm a first-generation licensed funeral director. My wife and I opened a business in 1996 which today employs more than 50 team members, most of whom are full-time.

The OFSA, the Ontario Funeral Service Association, has represented funeral professionals since 1883, representing 235 funeral establishments. We employ thousands of Ontarians. We represent the for-profit, independently owned funeral home operators and individual funeral directors in Ontario. We have spent the better part of 10 years working with the government, industry stakeholders and regulators to find common ground on reforms in the statutes and regulations that oversee the delivery of bereavement goods and services in Ontario. The Ontario Funeral Service Association has been an active member in the process leading up to Bill 65 and has made submissions in response to your consultation papers regarding the modernization of the Ontario Corporations Act.

This act has significant impact on our business. We are concerned about the blurring of lines between not-for-profits and for-profits as it relates specifically to the bereavement sector and specifically funeral services. Unlike in the past, funeral homes and cemeteries will soon be permitted to operate in combination.

To explain further, the bereavement sector includes funeral homes and cemeteries. The problem that follows is that the cemetery industry is dominated by not-for-profits and charitable organizations. These cemetery operators are looking to increase their revenues by

entering into the commercial funeral service businesses. As operators under not-for-profit or charitable status, these entities have significant tax advantages over the for-profit funeral operators. We are concerned and we need you to be aware of the unintended consequences of this decision and this act.

When not-for-profit enterprises and for-profit enterprises compete, not-for-profit enterprises act more like for-profit enterprises. As stated earlier, the bereavement sector in Ontario is essentially divided into two: funeral homes, that being ourselves, and cemeteries, being the churches or not-for-profits. In Toronto, Catholic Cemeteries operates seven major cemeteries, 14 smaller cemeteries and a crematorium, serving 4,600 families a year. The Mount Pleasant Group operates 10 cemeteries, 14 mausoleums and five crematoria. Catholic Cemeteries operates under a charitable status, with the Mount Pleasant Group operating under a not-for-profit. These two operators dominate the market, competing against for-profits under a preferred tax status. In Hamilton and Ottawa, Catholic Cemeteries also operates under charitable status.

A heightened revenue focus and the new-found ability to sell funeral services have forced several not-for-profit cemeteries to adopt aggressive marketing practices. Most large charitable and non-profit cemeteries in Ontario now require all families to attend their cemetery offices in person in order to authorize prepaid opening of graves. Upon entering the cemetery offices, families are required to meet with family services counsellors, who are commissioned sales agents charged with the responsibility of selling, upselling and cross-selling families on cemetery properties, vaults, crypts, visitation services, urns, flowers and the like. Traditionally, these at-need cemetery arrangements were arranged by fax or by phone.

Further, the recent implementation of the HST has resulted in religious cemeteries with charitable status having a 13% advantage over their not-for-profit and for-profit competitors on cemetery services. This 13% advantage will spill over to funeral services when regulation permits these same cemeteries to enter into the funeral service industry.

Pricing at these cemeteries is in line with their for-profit competitors. However, they benefit from tax advantages—income tax, property tax and, in the case of charities, also HST. The cost savings from their preferred tax status is not passed on to consumers, but used for large-scale marketing campaigns. We've circulated some of those marketing materials. They also use billboards and so forth in many of the communities.

Clearly, if the not-for-profit and charitable cemetery service providers continue to enter the funeral service industry under an unfair taxation regime, a significant shift will occur in Ontario's funeral service industry within just a few years. Main Street funeral homes will not be able to compete.

I'd like to take a minute to talk about jobs and job creation. While we understand that the not-for-profit sector is growing and creating jobs, our sector does not

grow. Unlike other businesses, the funeral service market cannot be expanded by demand. There are only so many deaths in a year. In handing the funeral service industry over to the not-for-profit/charitable sector, you're going to see job migration, not job creation, and job migration will be over to the not-for-profits or charitable entities.

In summary, left unchecked, this business environment will force our members to be squeezed out of the business due to an unfair playing field, eliminate the opportunity for young entrepreneurs like myself to move into large communities, and force many of us to consolidate into large entities to use economies of scale to compete. The result will be a loss of competition and, in the case of funeral services, a loss of consumer choice.

Furthermore, this will create a situation where taxpayers involuntarily subsidize not-for-profit and charitable organizations through their preferred tax status. As well, the government will miss out on taxation revenue generated by for-profit funeral services.

Our recommendation for Bill 65 is that this act should contain a clear, non-commercial restraint. This should include:

- a requirement that the dominant purpose of a not-for-profit or charitable corporation be non-commercial;

- a requirement that the business activity of a not-for-profit or charitable corporation be exclusively limited to those business activities that are incidental or ancillary to its objective;

- any incidental or ancillary business activity should be subject to an express cap of \$500,000, in keeping with the audit requirements already set out in the act;

- revenue over and above the \$500,000 cap should be taxed on par with regular commercial income;

- all commercial activities, not incidental and ancillary to the dominant purpose of the not-for-profit or charitable corporation, should not receive beneficial tax treatment and should be subject to regulations appropriate to such activities. This could involve the mandatory use of subsidiary or affiliate corporations;

- a requirement of full public financial reporting in keeping with the public interest in the use and preservation of publicly subsidized assets.

In conclusion, the primary concern of OFSA is the unfair competitive advantage which not-for-profits and charitable entities are given when earning commercial business income. We believe that the act should aim to balance the interests of for-profit and non-profit entities, establish a fair and competitive arena in business, and proactively foster and protect the independence of community-rooted diversity in the not-for-profit sector without providing economical inefficiencies and indirect subsidies. We want to compete, but on a level playing field.

1120

As you consider this bill, we want you to consider the unintended consequences that are unique specifically to the bereavement industry.

I thank you for the opportunity to speak with you today.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Parent. There are 20 seconds per side. Mr. Johnson.

Mr. Rick Johnson: Thank you. You've raised some interesting points in this, and I appreciate your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I just wanted to ask you one quick question. Is this more complex according to whether you are looking at major urban centres in the province in contrast to small, rural communities?

Mr. Brian Parent: Certainly in a rural setting there are less large cemeteries that are not-for-profit or charitable organizations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: There's some really cheesy stuff here: "If you make prearrangements with Catholic Cemeteries, we'll enter both of your names in a draw to receive a pilgrimage to Rome in 2010." That's really cheesy.

Mr. Brian Parent: That's a charitable organization making an advertisement.

Mr. Peter Kormos: And the upselling—that's pretty cheesy, too.

Mr. Brian Parent: And that's why we've supplied those advertisements.

Mr. Peter Kormos: The private sector does do it.

Mr. Brian Parent: The private sector does—

Mr. Peter Kormos: It's as cheesy when the private sector does it as the non-profits, isn't it?

Mr. Brian Parent: I would agree.

Mr. Peter Kormos: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Mr. Parent, for your deputiation on behalf of the Ontario Funeral Service Association.

Also, Mr. Kormos, just to answer your implied query with the photographer, I believe that was from the PC caucus, so you may be asked for a release for a brochure coming to your side soon, I'm sure.

MR. FRED HOLMES

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Fred Holmes to please come forward. He's coming to us in his capacity as a private individual. Mr. Holmes, welcome. We'll have that distributed for you. I invite you to (a) please be seated and (b) begin now.

Mr. Fred Holmes: Thank you, Mr. Chair. I am part of a unique group of newly retired senior corporate managers who, with one exception, now reside full-time in the twin villages of Britt and Byng Inlet, located in the unincorporated township of Wallbridge, district of Parry Sound, and one hour by car south of Sudbury.

I apologize for my lisp, but my bridge holding some of my front teeth fell out on vacation last week, so I'm seeing the dentist tomorrow.

Britt and Byng Inlet are surviving villages, created in 1868 as a sawmill camp. They have transitioned through coal to oil and now tourism. Most residents are elderly and on fixed income. The tax base is about 440 residences. We thank you for the opportunity to share some views with you on Bill 65.

These villages have a public benefit corporation that receives about \$14,000 each year through the Ministry of Northern Development, Mines and Forestry. Bill 65, in sections 211 to 240, recognizes corporations established under various government ministries. A notable omission, in our view, is local service boards established under the Northern Services Boards Act. LSBs are a PBC, as defined in Bill 65. We believe that all LSBs should be subject to Bill 65.

Taking extracts from correspondences with the Honourable Michael Gravelle, minister, his deputy minister, and assistant deputy minister, LSBs are incorporated under the Northern Services Boards Act, but the Corporations Act doesn't apply. The ministry has avoided answering our question as to what the legal status of LSBs is. Placing LSBs under Bill 65 would clarify their status.

In our local situation, we had to use a freedom-of-information request to receive the audited financial statements from which we established the bank position as of the latest fiscal year. Bill 65, in section 75(1)(b), allows a PBC with annual revenue of under \$100,000 to avoid an annual audit. Our PBC's annual budget is about \$80,000. Section 75(1)(b) would not allow us to know the bank balance. I should note that the local PBC receives questions and chooses not to provide answers of substance as a standard operating procedure.

The relevance of the bank position is simple:

—The PBC has a legislative mandate of finite services, through regulation 737, which has never changed since inception.

—Residents are assessed a tax to supplement the ministry's annual allotment to cover the PBC's annual budget.

—The PBC has no need to set aside reserves because of the nature of the finite services provided.

—The residents have a right to know that the current large surpluses of about 50% of annual spend are used to reduce their annual tax rate.

Bill 65, section 41, "Disclosure: Conflict of interest," has proven ineffective in our local PBC. The fire chief, himself a PBC director, continually drives through his annual economic demand through the PBC. He provides no paperwork to support his economic demand. Fire protection is one of the finite services of the PBC and is outsourced to a company controlled by the fire chief.

We suggest that Bill 65 is naive, expecting directors to act as real directors and boards to act in accordance with generally accepted practice. Certainly, our group found ourselves unpleasantly surprised after observing the local situation. Our request is that the committee consider some sort of government body where complaints can be

launched against boards that choose to avoid public scrutiny, transparency and financial accountability.

Lastly, we believe Bill 65's section 43, "Standard of care," should be strengthened. The prudent-man-rule language is dated. A newer version reflecting the current expectations of good corporate governance needs to be drafted. Monthly in the Globe and Mail are lists of the latest graduates from the MBA schools' governance courses. The standard today is already higher than the prudent-man rule. When I last served as a corporate director, the standard was well higher than the prudent-man rule, and that was a decade ago.

In conclusion, our request ultimately is for consistency in treatment of all corporations established under the legislation of the various Ontario government ministries. Folding LSBs under Bill 65 is consistent with that objective. With that, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Holmes. Beginning with Mr. Arnott or Ms. Munro of the PC caucus. About a minute to chat per side.

Mr. Ted Arnott: It was a very interesting presentation. I think you've raised some extremely important issues that need to be considered by the government as Bill 65 makes its way through the Legislature. You've been very clear about the origin of the problem and you've been constructive in suggesting solutions, so thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Very interesting, sir. I'm wondering if ministry staff could put themselves in a position where they could basically respond to this and explain what would have to be done to give local service boards this status, or whether the act already contemplates it, because I really don't know.

Mr. Fred Holmes: Well, sir, we've had about 15 months of dialogue with Minister Gravelle and his staff, and after 15 months we still don't have demonstrable results.

Mr. Peter Kormos: I'm not surprised. Internet gaming has taken priority.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. To the Liberal side, Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've brought forward some issues that I'm sure will be looked at as we move through this process. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Thanks to you, Mr. Holmes, for your deputation and written submission.

ONTARIO ASSOCIATION OF ARCHITECTS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Ms. Doyle of the Ontario Association of Architects, to please come forward. Welcome, and please begin.

Ms. Kristi Doyle: Good morning, Mr. Chair, and members of the committee. My name is Kristi Doyle and

I am the director of policy and deputy registrar for the Ontario Association of Architects. Joining me today is our legal counsel, Bernard LeBlanc.

Thank you for this opportunity to make this oral presentation regarding Bill 65. I have provided hard copies of our written submission, which are being distributed to you now. I would like to take a moment just to review this submission. The Ontario Association of Architects, which I will refer to as the OAA, is the regulatory body for the architectural profession in Ontario under the authority of the Architects Act. As you are likely aware, architecture is a self-regulating profession like lawyers, doctors, accountants and professional engineers.

The association is dedicated to establishing and maintaining the appropriate level of knowledge, skill and proficiency of the architectural profession in order that the public interest may be served and protected.

1130

Membership of the OAA includes 2,900 licensed architects, 1,300 intern architects, 750 associates, and there are currently 1,325 architectural practices in Ontario.

Following our careful review and consideration of Bill 65, we would like to submit that the OAA should be excluded from application of the Not-for-Profit Corporations Act, 2010, similarly to that which has been done for 23 other professional regulatory bodies. We believe that this amendment would be consistent with the current approach taken with non-profit corporations in the Architects Act and with the intent of the Architects Act itself.

Again, following our review, it would appear that our inclusion serves no public interest purpose and in fact, inclusion of the OAA in the Not-for-Profit Corporations Act, 2010, could adversely affect the OAA's regulatory activities.

I would like to take a moment to explain further our position. Unlike most non-profit corporations, the OAA is created by public statute. The Architects Act contains an elaborate series of checks and balances for its corporate structure and governance that addresses the OAA's unique regulatory role.

If you look at page 2 of our submission, we have provided a list of those very specific checks and balances. These include such items as specifying our public interest objects, creating a council that consists of both elected architects as well as publicly appointed laypersons, and also providing oversight of the council's activities by the Attorney General.

Historically, the issue of whether the OAA should be governed by a general corporate statute was considered in 1984, when the Architects Act was first enacted. At that time, through the Architects Act, the Legislature created its own special rules related to the corporate structure and governance of the OAA and excluded the Corporations Act from application to the OAA with, I will note, some specific listed exemptions. Those specific

exclusions are contained in section 54 of our act, and are presented in our written submission on page 3.

We continue to support the position that the OAA's public interest regulatory role is inconsistent with general corporate governance and that our existing checks and balances serve the intention of our self-regulatory nature. As a self-regulating profession, the rights of our members, who are regulated by the OAA, are different than the rights of members of a non-profit corporation. We feel that if Bill 65 is enacted without amendment, it will indeed apply to the OAA and as such, the OAA will be required to operate in accordance not only with its own statute, but also with the Not-for-Profit Corporations Act, resulting in what we believe would be unintended consequences.

We do understand that under section 5 of the Not-for-Profit Corporations Act, 2010, the Architects Act would take priority over any inconsistent provisions in the bill. However, the Not-for-Profit Corporations Act contains many additional duties and powers that may not be directly inconsistent with the Architects Act or may be silent on point, but will be inconsistent with the public interest role and regulatory mandate of the OAA. For example, subsection 26(1) of the Not-for-Profit Corporations Act states:

"Removal of directors

"26(1) The members of a corporation may remove any director or directors from office by ordinary resolution at a special meeting."

This provision is not directly in conflict with any provision of our act and there is good argument to be made that it will apply to the OAA. However, providing such a power can cause a chill in a council debate over a measure that will protect the public interest but may be unpopular with the profession. Potentially, this power might even apply to public council members appointed by the Lieutenant Governor in Council. For this reason, the Architects Act provides for removal of elected council members only by council itself and publicly appointed council members by the Lieutenant Governor in Council.

In addition, section 5 of the Not-for-Profit Corporations Act only makes the Architects Act and regulations paramount over the not-for-profit corporations, not the OAA's bylaws. If any provisions of the OAA bylaws are inconsistent, the latter takes priority. For example, the provisions in Bill 65 about holding the meetings of membership take priority over the provisions we currently have in the OAA bylaws.

Our submission provides additional examples of sections of the Not-for-Profit Corporations Act which may result in unforeseen consequences. The theme of the Not-for-Profit Corporations Act of giving more power to members may be appropriate for many non-profits but would be inappropriate for the OAA, whose mandate is to regulate the members. The failure to exclude the OAA from the proposed act is in a way somewhat surprising to us as many other regulators and similar organizations have a provision excluding them from the new act.

In conclusion, the OAA respectfully submits that the Not-for-Profit Corporations Act be amended in order that the OAA be excluded from its application. Page 7 of our submission provides draft wording that we believe would achieve the desired and necessary exclusion by in fact amending the Architects Act to formalize that exclusion. I'm happy to review the details of the language, should the committee desire.

Once again, thank you for this opportunity to make this submission. We believe the proposed solution will address our concerns and allow the OAA to continue to regulate the architectural profession in the public interest.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Doyle. Mr. Kormos, less than a minute.

Mr. Peter Kormos: Thank you kindly. Surely you raised this with the ministry? Surely.

Ms. Kristi Doyle: Which ministry? With the Attorney General?

Mr. Peter Kormos: Well, you could have raised it with him or with the sponsor of the bill, Sophia Aggelonitis.

Ms. Kristi Doyle: It has been raised.

Mr. Peter Kormos: What happened, as a result of that?

Ms. Kristi Doyle: Nothing at this point.

Mr. Peter Kormos: What's the matter with them? Mr. Johnson, you take a crack at it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you. You've raised a number of issues which I'm aware of and I appreciate you raising them again. I'm sure that they will be brought forward as we consider amendments moving forward.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: Yes, I would just like to echo the sentiments expressed. I would expect that the government would feel the urgency to have a look at this. It sounds very clear-cut, so I'd certainly expect that your voice would be heard.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Doyle and Mr. LeBlanc, for your presentation on behalf of the Ontario Association of Architects.

LAW SOCIETY OF UPPER CANADA

The Chair (Mr. Shafiq Qaadri): We'll now invite our next presenter—I think we're still trying to connect with our 11:50 presenter—but in any case, Mr. Malcolm Heins of the Law Society of Upper Canada, if he's available.

Interjection.

The Chair (Mr. Shafiq Qaadri): Has not arrived yet.

Mr. Ted McMeekin: He's notoriously on time.

The Chair (Mr. Shafiq Qaadri): Is Ms. Hewitt from Social Innovation Generation here?

Mr. Ted McMeekin: Here he is.

The Chair (Mr. Shafiq Qaadri): Is this Mr. Heins? Welcome, and please be seated. We are ahead of schedule and we invite you to please come forward.

Mr. Heins is the CEO of the Law Society of Upper Canada. You have 10 minutes, Mr. Heins, as you know, in which to make your presentation, and I invite you to (a) collect your breath and (b) begin.

Mr. Malcolm Heins: Sorry; I'm glad I walked briskly.

Thank you for hearing from the law society. I'm the chief executive officer of the law society, and I have with me this morning, Elliot Spears, our general counsel, and Sophie Galipeau, our policy counsel.

We've been regulating lawyers now in Ontario for 213 years and paralegals since 2007. We have 40,000 lawyers under regulation and 2,700 paralegals at the moment.

We support the intent behind this legislation. Our concern really is its application to the law society and the Law Society Act. In fact, if you look at the provisions in this legislation, many are antithetical to our mandate. What you have to remember is that even though we are a not-for-profit, without share capital corporation, we are actually in the regulation business, so that our members are the people we regulate. So if our members have some of the authorities and powers which are granted under this new piece of legislation, in effect, what they can do is vote down some of the regulatory provisions we would pass with respect to them, which is really not the intent, I don't think, of the legislation, nor is it obviously good regulation. What we're asking is that we be exempted from the application of the legislation.

1140

We are currently subject to the Corporations Act, but we're exempt from certain provisions. Furthermore, if you look at the Law Society Act, there's a provision that expressly states that where there is a conflict between the two acts, the Law Society Act prevails.

At this juncture, we coexist quite happily with the Corporations Act. Under our legislation, as well, we have a bylaw-making authority, which we have to exercise in the public interest. Many of the provisions that you would expect that we need in terms of running our corporate affairs are contained within our bylaws and are passed pursuant to our bylaw-making authority. As a result, the provisions in the Corporations Act, over time, have come not to in fact govern the law society at all, but to supplement the Law Society Act and the bylaws in areas where the Law Society Act and the bylaws are silent. For instance, there are some sections in the act we've chosen not to re-legislate; for instance, you can't be a bankrupt and be a governor of the law society. In effect, that's pretty standard: Directors cannot be undischarged bankrupts. So we have simply assumed those provisions silently as part of our governance structure.

Bill 65 removes us from the Corporations Act and now places us under the Not-for-Profit Corporations Act, and while it contains many of the provisions within the Corporations Act, it also introduces new features that, as I said in my opening remarks, fit rather poorly with a

regulator such as the law society. In fact, some of those provisions would actually prevent us fulfilling our mandate to regulate lawyers and paralegals. In particular, as I point out at paragraph 9, there are areas where, as I said earlier, we have been silent with respect to governance. While Bill 65 has a conflict section in it, it would be open to interpretation, in the absence of direct legislation by the law society, either within our act or bylaws, as to which legislation would govern.

Let me give you a couple of examples. Section 17 of the bill requires members to confirm at an annual general meeting all bylaws made by the law society. This is inconsistent with the law society's mandate to regulate in the public interest, as members at the annual meeting could vote down bylaws that impose requirements on them. Again, when you look at that, it's just antithetical that we would do that. We're currently exempt from that current provision in the Corporations Act.

Section 26 of the bill permits members to remove directors by resolution. Again, you couldn't have regulated members of the law society removing governors based on the fact that they don't like how the governors are regulating or governing them.

Thirdly, an individual member can apply for an oppression remedy. Well, you can imagine the situation where we've disciplined a lawyer, who then goes to court and tries to get an oppression remedy with respect to that discipline. That, again, when you think about it, would not be good governance. Those are just some examples that we've pointed out in this particular paper.

So what we're suggesting is that, for the sake of clarity and transparency, a clear exemption from the provisions of Bill 65 be enacted within the Law Society Act. At paragraph 14, what we say directly is that the consequential amendment be made as soon as possible to section 6 of the Law Society Act to state that the Not-for-Profit Corporations Act does not apply to the law society. There's a similar section set out at section 217 of the bill with respect to the College of Early Childhood Educators.

Our submission is quite simple: that this act ought not to apply to the law society and that our Law Society Act should have an amendment made to it, consequential with the passage of this act.

Thank you for your attention, and I'll take any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Heins. A minute per side. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. You've raised a number of very good issues that I know will be discussed. I thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. PC caucus: Ms. Munro.

Mrs. Julia Munro: Yes, thank you very much. It would seem from the previous presenter as well that this has been an oversight on the part of the government in terms of looking at those professional organizations such as yours. We'll certainly do our best to make sure that they come to grips with this omission.

Mr. Malcolm Heins: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: Thank you for your submission. The Ontario Association of Architects was here just before you with some of the same concerns.

Interjection.

Mr. Peter Kormos: Secret regulations passed in the dark of the night in cabinet and then misleading the people of Ontario and even Toronto's police about where they can and can't arrest people around the G20 demonstration—remember that, Chair?

Mixed martial arts—the government seems to have gotten that one nailed down; Internet gambling—but they screw up something as simple as this. I'm hoping the government members will take your message to the minister. Who is the minister, by the way?

Interjection.

Mr. Peter Kormos: Gerretsen; that's right. Sophia got promoted. The eco tax—that's right. You guys nailed that one down good too.

Thank you, sir.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Mr. Heins, for your deputations on behalf of the Law Society of Upper Canada.

Mr. Malcolm Heins: Thank you for everybody's attention. Have a good summer, what's left of it.

MR. GILBERT GAGNON

Le Président (M. Shafiq Qaadri): Notre prochain présentateur est M. Gilbert Gagnon. Vous êtes là, mon ami?

Mr. Peter Kormos: How do you know he speaks French?

The Chair (Mr. Shafiq Qaadri): That was French, my friend, not Spanish.

Monsieur Gagnon?

Mr. Gilbert Gagnon: Yes. Hi.

Le Président (M. Shafiq Qaadri): Hi. En anglais ou en français?

Mr. Gilbert Gagnon: English.

The Chair (Mr. Shafiq Qaadri): Oh, there you go. I invite you to begin now. You have 10 minutes.

Mr. Gilbert Gagnon: Thank you very much and welcome, everyone. If I said I wasn't nervous I wouldn't be honest. I'm a little nervous.

I guess I'll just get down to it. About six months ago, Hansard was up here in North Bay. They were asking consumer survivors what they should do to improve the system and I did a 10-minute presentation up here in front of the ministry of economic affairs, their pre-budget consultation committee. So that was a little bit difficult, but what I wanted to talk about was quite serious because I want to put my input too into what had happened to me and how I feel things should be changed. I'm just going off of my memory here so I have no paperwork in front of me, as I just got in from out of town about five minutes ago, actually.

Anyway, some of the changes and recommendations that I would recommend are—first of all, I was diagnosed about five years ago with attention deficit hyperactivity disorder. I am borderline. I'm 44 years old and I'm from North Bay. I sat on a board for the National Network for Mental Health for five years. I was ready to go to my AGM and I received a letter in the mail that I wasn't welcome to go to the annual general meeting. They wished me well in my search for wellness, and I was quite upset. I knew there was something wrong so I phoned the 1-800 number. We used to do teleconferences as a board because we were national. In case you don't know, the purpose and mandate of the national network was to eradicate the stigma of mental illness, and I really highly believed in that function of eradicating the stigma, because lots of genius comes out of bipolar and other stuff like that.

So as I sat for five years—you become a family, as you know; after a while you trust each other and get to know one another. While they were out at the annual general meeting that I was entitled to—and I was entitled to notice of meetings and they didn't give me a notice—I phoned the 1-800 number and said to the individual doing the teleconference, the 1-800 number, that we had an argument about the invoice and if he could email me all the invoices. He e-mailed them, and right away I noticed there was no quorum. There were only three people out of 10 at the meeting where they decided to get rid of me. It was almost like a personal thing. So when they got back from the AGM, which was up in Ottawa, I phoned my ex, who sat on the board, and I asked her if she had the minutes. She said she had the minutes, and I said, "I'm going to come over and get them." She said, "You can't," and I said, "Why?" She said, "I scratched them out." So I knew right away that they rewrote the minutes, and I was quite upset.

1150

From there, I got the Ontario Human Rights Commission in. This is my most important point: that as we develop and we want to get to the bottom of what's wrong with the not-for-profit situation, the Ontario Human Rights Commission does not have—it's illegal to segregate or limit someone in an organization. With their code, it's okay to limit and segregate someone in an organization—first of all, 9(a), (b) and (c) of our Human Rights Code, which didn't apply to me even though I was with a national organization. They said, "You don't understand. It's just for international planes and trains, so you fall under the Ontario Human Rights Code." So the first thing to address is to try to put the code in the Ontario Human Rights Code, because right now it could happen to any one of you sitting there, anyone who sits on your city council or on any boards. This can happen to you.

The law states that you're entitled to notice of meetings, but you're not really entitled to notice of meetings, because if you go through what I went through, there is no protection. My whole point when I did the Hansard voice recording—if you have a chance to go back and

read that, it was done in February of this year in North Bay—I touched on how we need more volunteer protection.

Secondly, I must state that the law society states in their bylaws that it's illegal for a lawyer to leave his client in peril. What had happened to me was my lawyer got reprimanded. In the letter from the law society, one page says that if the lawyer's negligence is not dealt with at our level, then it will have an adverse affect on the way that law is dealt with in our society. The next page says that the law society does not have regulatory jurisdiction to deal with lawyer negligence. My case was dismissed because my lawyer, after I gave him over \$5,000 that I was paying high interest on—I was a volunteer. That got me into that mess in the first place, because it had a very bad effect on my reputation. I ended up going down to the commissioner's office at Osgoode Hall, to Mr. Clare Lewis, just to know at the end that it was all a blatant waste of time anyway because they had already made up their minds that they don't deal with lawyer negligence. I have 12 letters from all the lawyers up here that no other lawyer will take another lawyer to court.

This is the last conversation that I wasted. I lost five years of some enjoyment in life.

I also have to reiterate that at one point in time I brought indictable charges against those board members at our local courthouse, because it's a criminal offence to destroy documents of title. When the Ontario Human Rights Commission sent me the minutes—they went into the head office and got the minutes—sure enough, no one motioned me off the board. But our bylaw states everything is under Robert's Rules of Order, and the lawyer had told me that when I got the information from the Ontario Human Rights Commission to then retain him. So at that time, I obtained \$3,000 and I gave it to the lawyer. It all ended up being dismissed. The DA said, "No, you're just doing it to be vindictive. Something is going on there," and they dismissed that. So I ended up walking away with, I guess, a stalemate. I lost because I lost a lot of money.

Anyway, I need to go into what I also feel has to be done at Corporations Canada. I had complained about what I went through, and they didn't seem to be able to do anything. A page in their kit says that if people are publicly funded, then taxpayers' money is of serious concern. Later, in another letter, while I was communicating with Mike Ducharme down there and Jennifer Elliot, the senior management, they said, "Well, we didn't really mean that. That's old legislation. Public funds now are no big deal." What I would do in that situation is have lawyers, if someone reports something like what I went through, which I call kind of tragic—all Corporations Canada did was pump out two or three audits within a six-month period, but that didn't help me, so maybe pull out our lawyers.

There should be a contract made—remember, the national network I was sitting on is funded for \$1.23 million per year. It's earmarked for mental health within the Service Canada agreement. But the agreement

doesn't say that if you break the bylaws, you should be cut off or a lawyer should come on the side of the victim. So one of the main things that should be done—

The Chair (Mr. Shafiq Qaadri): You have about 30 seconds, Monsieur Gagnon.

Mr. Gilbert Gagnon: Thank you. Anyway—I may have covered it all. Any questions?

The Chair (Mr. Shafiq Qaadri): To the PC side, Ms. Munro—

Mr. Peter Kormos: You're up in North Bay. I suggest you get a hold of Monique Smith. She's your MPP. I think she'd find it very valuable if you gave her a thorough briefing on these matters.

Mr. Gilbert Gagnon: I've given her everything. Everything came up with a stalemate.

I just thought that I'd elaborate one more thing, and that's because of the name, National Network for Mental Health. There was a lot of false compassion, which was just compassion for the organization. Once again, false compassion is when we forget about the murdered and have pity on the murderer, and forget about the people who were—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Mr. Gagnon, and I'd like to just thank you on behalf of the committee for your deputation.

SOCIAL INNOVATION GENERATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Hewitt of Social Innovation Generation. Welcome, and please be seated. I invite you to please begin.

Ms. Allyson Hewitt: Thank you for the opportunity to address you this morning. My name is Allyson Hewitt, and I'm the director of social entrepreneurship at the MaRS Discovery District here in Toronto and also the director of SiG, which stands for Social Innovation Generation. At SiG, we do three things: We advise social entrepreneurs, we convene stakeholders interested in understanding and promoting social innovation, and we're trying to accelerate the uptake of social innovation in our province, often through the promotion of best practices internationally.

I do have handouts I would like to give to the clerk; there are quite a lot. One is a pamphlet on the services, and one is a couple of white papers, one on social venture finance and one on legislative innovation.

I'm here today, though, as a very proud adviser to the Ontario Nonprofit Network. I want to publicly acknowledge what I see as the tireless efforts of Lynn Eakin and her leadership in ensuring that the vast range of members of the Ontario Nonprofit Network had an opportunity to present to you on what is their daily experience on the front line. That is reflected in the submissions that you're hearing today. Of course, there was coordination, but I think what's even more astounding is that there's some form of consensus among the very diverse non-profit sector. So I want to recognize that. It's a tough sector to get on-side. It's incredibly diverse.

I've been leading non-profit organizations since the early 1980s, which somehow or other became 25 years ago. I don't know how that happened—obviously, out of the cradle—but I have moved through the sector, from working with homeless youth to initiating and implementing the 211 initiative, which some of you may be aware of, to working with legislators to legislate and advocate for children's rights, and now promoting the opportunity to find new ways of looking at these opportunities that we have that were traditionally thought of as challenges.

1200

Given that history, what I'd like to do is start with something that we've been dealing with for a really long time, which is what we call our sector. I'm very much in favour of the concept of public benefit. It's a trend that we see globally, and it's language that's much more positive than defining ourselves by what we don't do. "Not-for-profit" doesn't say what we do; it just says what we don't do.

In the two countries we often look to, the US and the UK, we are seeing that President Obama has a new Office of Social Innovation and Civic Participation, and Prime Minister Cameron, in the UK, has a new office that used to be called the Office of the Third Sector, now renamed the Office for Civil Society. The focus is clearly on what the sector is promoting—and encouraging impact—not on how it's funded. I would urge the committee to consider how amending the definition of a public benefit corporation would be better served by looking, not at the income source, but at what the focus of the sector is.

Secondly, from my point of view, which is dealing with social entrepreneurs and social innovators, the legislation needs to reflect the reality of the sector, which is that a significant portion of the income comes from earned revenue, more than both government income and private philanthropy. We cannot ignore the reality that, again, if I look to the UK—someone referenced this earlier on—there is something called CICs, or community interest companies, in the UK; there is L3C legislation in the US. What this really shows is that the sector is very keen at revenue generating. If you go to an arts show, if you go to a theatre, it's run by a non-profit; you're paying for a ticket. If you have a membership at the YMCA for fitness, you're paying for it. There's a lot of income that's generated this way.

In the UK they've looked at something called a "destination test." The money that a non-profit makes: Where does that money go? It's redirected into the mission, into the social purpose. That's what I think the focus could be and what I'd urge us to consider in refining section 8(c), the definition of that social purpose, and in looking at the commercial activities.

I just wanted to correct something one of our colleagues from the funeral services said. Non-profits have to charge HST. They will get some of it back, but as far as the consumer is concerned, they're actually charging

it, so there isn't that 13% differential that he referred to in terms of competition.

I also just wanted to spend a second saying what social enterprise looks like in this country, in this province. A-Way courier provides real jobs to survivors of mental health challenges to provide same-day courier service using the TTC. You've got a triple bottom-line there: You have an economic outcome, you have the social outcome, and you have the environmental outcome, because they're not in cars and they're not even on bikes; they're actually using the TTC. Jump Math helps students unlock their academic potential through focus on academic success. They sell workbooks, both teacher manuals and workbooks for students. John Mighton, who is the founder of Jump Math, was recently a recipient of the Order of Canada. Social entrepreneurs are making a huge impact in our country, in our province, in our city. Eva's Phoenix is a print shop training and employing homeless youth. ReStore is the retail arm of Habitat for Humanity.

This is a reality, and we need enabling legislation that recognizes that reality. They're all facing challenges getting their missions met, but financing them in a way that is beyond the traditional charity model, one that recognizes the real values they bring in both economic and social terms.

At MaRS we are meeting folks interested in completely blending their social purpose and revenue-generating models. It is clear we need an enabling environment to make this happen.

I have given you two white papers. One speaks to those legislative innovations, talks about these L3Cs and CICs and looks at giving you a bit of a fuller context about what that's all about.

While completely supporting the promotion of revenue-generation options, it's also our contention that in order to enable scale, we need to think about how we finance social purpose work more fully. The community bond is one thing that you've heard about. It's one way we can begin to enable people to support social purpose work out of both pockets, i.e., through charitable donations and through some form of investments. We've talked about it being RRSP-eligible.

We have worked with a variety of groups, including the co-op sector, and we have an adviser at ONN who is deeply engaged in that sector. They certainly have a clear process in place to enable the process of community bonds, and we would like to work with that sector to leverage their expertise.

The final paper I have is Social Venture Finance. It's basically a primer on what I would call social finance in this province. We also have a website called socialfinance.ca and many other tools and resources, including the establishment of a blue ribbon panel called the Social Finance Task Force, based on the UK task force that was implemented 10 years ago. We absolutely need to find new ways to finance social-purpose work in our province and, therefore, from a legislative point of view, systems to enable that. There are real social chal-

lenges that we need to address collectively, bringing the expertise of various sectors to bear on these challenges.

At MaRS, it is our premise that innovation happens anywhere but accelerates in the margins between unusual stakeholders who don't normally work together. So in order to ensure that our non-profit sector is enabled to contribute to the best of their ability, we need a supportive and enabling environment. This legislation is a solid step in that direction, and with the amendments that you've heard about, I think we can position Ontario as a leader in our efforts to promote social purpose work and inclusion to all our citizens.

Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Hewitt.

There's about 45 seconds per side. Mr. Kormos?

Mr. Peter Kormos: Thank you, Chair. Thank you very much for your material.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

Mr. Rick Johnson: This is very interesting documentation here. Thank you for your presentation and for the ideas that you've brought forward.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Munro?

Mrs. Julia Munro: Yes, I wanted to ask you whether or not you felt that you had had sufficient consultation in the preparation of this legislation that would help to reflect the direction in which you see your organization and this process developing.

Ms. Allyson Hewitt: Thank you. I think it's absolutely a work in progress. There was a meeting that I went to—gosh—at the YMCA. It was well over a year ago. I don't have a copy, but there was a pretty substantial document. Things were floated out there, and we were able to contribute on that and coalesce the sector around that. Then the ONN, which has got a very close working relationship with the various ministries that are involved in social purpose work, has been able to mobilize the sector and pull a group of experts together.

So I feel there has been some good opportunity for consultation, but you know, sometimes the people who are writing the documentation are privy to things that we're not—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. I'll have to intervene there, and thanks to you, Ms. Hewitt, for your deputation on behalf of Social Innovation Generation and your activities with the MaRS group.

COLLEGE OF VETERINARIANS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Ms. Carlyle of the College of Veterinarians of Ontario and colleagues. Welcome, Ms. Carlyle and your colleague. I'd invite you to please begin now.

Ms. Susan Carlyle: Thank you very much. My name—good morning, first. My name is Susan Carlyle, and I'm the registrar of the College of Veterinarians of Ontario. I'm assisted today by our counsel, Bernard LeBlanc.

Mr. Bernard LeBlanc: Good morning.

Ms. Susan Carlyle: Just to paint a picture, the College of Veterinarians of Ontario is the licensing and governing body for veterinarians in Ontario. It is specifically mandated to regulate the practice of veterinary medicine and to govern its members in the interests of the public. I am here to ask for the college's exclusion from the Not-for-Profit Corporations Act in the same way as the human health colleges and a number of other professions have been excluded.

I believe you're going to find that much of my presentation is going to mirror the principles and practicalities of both the Ontario Association of Architects and the law society. This, of course, is in the context of the veterinarians, but they really are the same principles.

In our submission, inclusion of the college is not in the public interest and would adversely affect the college's regulatory processes. Actually, we do believe that it may have been a mere oversight to not exclude this particular college, as it seems that the act, in our context, would serve no public purpose. We submit that an amendment to exclude us would be consistent with the current approach taken regarding non-profit corporations, as in the other acts and also the Veterinarians Act; the current Corporations Act and its limited application does appear in the Veterinarians Act.

Just to give you an idea of the situation now with veterinarians, the current regulatory scheme provides for a council as our board of directors, which has overall responsibility for all of the actions of the college. Eligibility for membership on the council, its composition, terms of office, authorities and responsibilities are set out in our act, along with a provision for up to 15 elected professional members and up to five appointed specifically by the Lieutenant Governor in Council to protect the public interest. Members of council then sit on our various statutory committees to carry out the regulatory responsibilities of the college, such as accreditation of veterinary facilities, registration of members, investigation of complaints and discipline hearings.

Our legislation, specific to the governing of veterinarians, provides mandatory oversight of the council by our ministry, which is the Ministry of Agriculture, Food and Rural Affairs, and also provides for review oversight of various committees' decisions by the Health Professions Appeal and Review Board. This ensures that the college itself and our members are appropriately directed and expected to be fair, open and accountable to the government, to each other and, most of all, to the members of the public.

You may be interested to know that, as with the architects, the Legislature, when it first enacted the Veterinarians Act, considered whether or not this kind of governance ought to be assumed in a general corporate

statute. It decided that this was not appropriate and instead created its own special rules related to the corporate structure and governance of the college. It excluded both the Corporations Information Act and the Corporations Act from application to the college, with a few noted exceptions.

We submit that this reflects the viewpoint that the college's public interest regulatory role was inconsistent with general corporate governance. The mandate the college has to regulate its members in the public interest places the members, as the law society pointed out, in a completely different relationship to its members than those a charity or a club would have with its organizations.

We have some concerns that if the new act does apply, we'll be required to operate in accordance with two separate pieces of legislation. Undoubtedly, there will be unintended consequences.

I have distributed to you a slightly longer version of this talk so that I won't go into the examples of how this would happen. There are examples in that document.

It is impossible to anticipate all of the potential unintended consequences. Given that the corporate structure and governance of the college is specifically addressed in the Veterinarians Act, it is difficult to see why it's being included in the Not-for-Profit Corporations Act.

Therefore, the college respectfully submits that the new act be amended by adding a subsection to section 47 of our act which would specifically say, "The Not-for-Profit Corporations Act, 2010, does not apply to the college." This amendment, we also submit, would simply maintain the status quo, as we understand that the Corporations Act will continue to exist. Therefore, no amendment to the rest of section 47 is necessary.

I thank you very much for allowing me to come and speak with you today, and I welcome any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Carlyle.

There's about a minute or so per side. Mr. Johnson.

Mr. Rick Johnson: Just a comment: We are aware of the concerns on the government side and are speaking with OMAFRA to identify any potential solutions. This is also the case with the law society and the architects; we are speaking with the appropriate ministries on the issues that have been raised. We are aware of your concerns.

Ms. Susan Carlyle: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro?

Mrs. Julia Munro: Speaking for this part of this side of the House, we will continue to make sure that they follow through on their research to be able to look at what you have raised today.

Ms. Susan Carlyle: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I am just so genetically loath to acknowledge that the government might have made a

mere oversight, but I'll cut them some slack on this one—okay? Because again, I'm designed, I'm programmed to rail at them and attack them at every opportunity. But for the life of me, we've got a problem now.

The clerk may be able to help us over the course of the next week. Would an amendment to the Veterinarians Act be in order with respect to amending this Bill 65, as compared to simply adding to section 216(1), which lists the number of corporations? That's maybe a little bit of a difficulty here. You're going to be hard-pressed to get this stuff rushed through, if you have to present new bills, if it's not in order to amend this bill—although I would agree or urge the Chair to find that that would be in order. Of course, if the Chair's hands are bound, his hands are bound.

Mrs. Julia Munro: I think it's political will.

Mr. Peter Kormos: Yes.

So thank you very much—interesting stuff. How the heck did this happen, Mr. Johnson? Please.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. Carlyle, for your deputation on behalf of the College of Veterinarians of Ontario.

The committee is recessed until 1:30.

The committee recessed from 1214 to 1332.

SOCIAL PLANNING TORONTO

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues, and ladies and gentlemen. We will begin our afternoon presentations. I would invite Mr. Jerry Leonard to please come forward.

If not, is Mr. Campey available? Please come forward. Thank you, Mr. Campey. We'll give you the priority position for your deputation on behalf of Social Planning Toronto.

As you've seen the drill, you have 10 minutes in which to make your presentation and any time remaining will be evenly distributed amongst the parties for questions. I invite you to please begin now.

Mr. John Campey: Thank you very much. I very much appreciate the opportunity to speak to you this afternoon on this bill.

First of all, to give you just a little bit of background on Social Planning Toronto: We're a non-profit community organization. We are primarily funded by the United Way and the city of Toronto, and our work is research, policy and how it assists community development and civic engagement. Our focus and our goal is improving the quality of life of all Toronto residents. Our work focuses on poverty reduction with an emphasis on income security, good jobs, affordable housing and strong public education.

Social Planning Toronto would first like to commend the Ontario government on its leadership in introducing this important bill and its ongoing commitment in supporting the work of the non-profit sector.

Bill 65 is a much-welcomed and long-overdue piece of legislation that will enable us and the 46,000 other non-profit organizations in Ontario to strengthen our work in our respective communities and provide us with the appropriate tools and legal framework to carry our work forward in the years to come.

This bill recognizes the unique and crucial function we play as a sector, independent from the private for-profit world. Furthermore, it acknowledges the social and economic contributions made by non-profits and addresses the many challenges we face in regards to incorporation, governance, members' rights and finance.

As an organization with currently over 150 organizational members—and just to elaborate a little bit, those 150 organizations in the city of Toronto include a very diverse group, from very large organizations, such as the YMCA, the YWCA, Family Service Toronto, right down to very small organizations which are entirely volunteer operated and led. So it runs the entire gamut. Among our functions is coordinating the city-wide agency network which incorporates the 20 largest non-profits in the city. Also, we work very closely with Toronto Neighbourhood Centres, which are the 35 local multi-service agencies located across Toronto. So it's a very diverse cross-section of the non-profit sector that we represent. As an organization with that broad representation, we know this bill will have a broadly positive impact, but only if a few critical changes are made to the bill as it is now drafted.

Overall, we enthusiastically support the contents of the bill; however, we strongly encourage the government to incorporate the amendments provided in the submission developed by our colleagues from the Ontario Nonprofit Network. We've been very pleased to have the opportunity to work with them on the development of their presentation and strongly support all of the elements that they have raised. They've gone into significantly greater detail than we do in the course of this presentation, but we do want to go on record in support of the positions that they've taken. The key changes that they're suggesting will greatly assist the sector in its work and maximize the effectiveness of the bill.

Some of the changes include developing a clear and precise definition of a public benefit corporation, whereupon a non-profit can opt into being a public benefit corporation regardless of whether it receives government funding. There are many of the smaller organizations with which we work that do not receive government funding, and to exclude them from this opportunity would seem not to be either appropriate or particularly fair.

We also support ensuring a permanent asset lock on a public benefit corporation's assets, as opposed to the proposed three-year temporary lock, to ensure that assets remain in the public domain. It shouldn't be possible to go back and forth between being a public-benefit corporation and not being a public-benefit corporation. There seems to be a number of real challenges with that position being accessible.

Finally, we also support providing non-profit corporations with the ability to issue community bonds, as Ontario co-operatives currently do, in order to raise capital in their communities. One of the real challenges many non-profits face is raising capital. To have this opportunity would be one that is very much in keeping with community development objectives as well as providing non-profits with that capacity and that opportunity to raise capital.

There are two amendments to the bill highlighted by the Ontario Nonprofit Network which we would particularly like to support. As the bill currently stands, there are no provisions for a liability shield for directors and officers of non-profit corporations. With the vast majority of directors being volunteers, the absence of any liability protection will further discourage highly skilled and qualified individuals from participating on boards of non-profit corporations, contributing to high board turnover and increased organizational instability.

As the option for insurance will be feasible for only a small number of non-profits falling under this legislation and those few able to afford it due to increased costs, it's imperative that the government acts to protect directors and officers who are dedicating their time and efforts for the benefit of their communities. We therefore call on the inclusion of a subsection to subsection 46 of Bill 65 to limit the liability directors and officers are vulnerable to. We recommend modelling such an addition on section 112.1 of the Saskatchewan Non-profit Corporations Act from 1995.

Finally, we would ask that the government review its position that not more than one third of directors may be officers or employees of a public benefit corporation. For many smaller non-profits, which typically have entirely volunteer boards of directors, this change will cause increased financial strain, as they would be required to hire outside officers to fill these positions, since recruiting volunteer treasurers who are not on the board, who do not have that kind of direct responsibility and accountability, will be extraordinarily difficult. We support the recommendation that subsection 23(4) be removed in its entirety.

1340

Just to elaborate on that a little bit, many of the organizations we work with have small boards of directors—just five or six people—and under the current provisions, only two of those would be able to be officers. That means you could possibly have your president and secretary or secretary and treasurer as board members, but not president, secretary and treasurer unless you had a board of nine individuals. That creates a real problem, and I don't think that is the intent of what was being considered, but it is the way it stands right now.

An amendment to exclude that provision where volunteers who are board members cannot fill those positions is a challenge. I know my own board has 15 members, so it's not specifically a problem for us, but the message being sent out that board members should not also be officers of the organization is a slightly confusing one. In

the case of the many smaller organizations, it creates a real challenge and, in some cases, a real hardship for them. Often it's a challenge to come up with six board members to support a really small non-profit, so to add this burden to groups that are trying to get together to address an issue or meet a need creates a real challenge.

On that note, I'd like to thank you for considering these recommendations for amendments to Bill 65 and hope that they will be implemented to help create an even stronger and more vibrant non-profit sector in the province. Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About 30 seconds or so, to Mr. Arnott.

Mr. Ted Arnott: Thank you very much for your presentation. It was very interesting.

I just want to ask a question about the permanent asset lock request. Right now, the bill provides for a three-year asset lock. Why do you suppose the government limited it to three years and didn't understand the importance of making it permanent?

Mr. John Campey: I would not want to venture on why the government would do something. Our concern is that because it is such a short term, it does create opportunities for public assets, in the sense of charitable assets, not to remain in the public realm and for public benefit.

Mr. Ted Arnott: Would one of the government members care to offer an explanation?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you very much. You're obviously echoing some of the stuff we've already heard. That's good, though, because it might make a bigger impression.

Mr. John Campey: Exactly. Again, the non-profit sector is very, very diverse. I think the Ontario Nonprofit Network has done a very good job of bringing together those diverse sectors, giving us all a chance to reflect our own unique concerns into a comprehensive set of recommendations, which is one of the reasons why I hope the committee and the government will treat them very seriously. They do represent broadly diverse sectors.

The Chair (Mr. Shafiq Qaadri): Mr. Johnson.

Mr. Rick Johnson: I appreciate your presentation. You've raised some good questions, which I will ask when we get into the amendments. I appreciate what you've brought forward and the support that you obviously have for the intent of the bill. We still have some details to work out.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Campey, for your deputation on behalf of Social Planning Toronto.

Is Mr. Jerry Leonard present? Going once.

UNITED WAY TORONTO

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Mr. Alexander and Ms. Mason, of United Way Toronto. Welcome.

You've seen the drill: You have 10 minutes. Please begin.

Mr. Peter Alexander: I'm just here by myself. Ms. Mason is not able to attend today. I have copies of my brief for the clerk. I'll proceed and allow you the opportunity to ask me some questions, should you wish to do so. Thanks for this opportunity to make a presentation to this committee regarding Bill 65, the Not-for-Profit Corporations Act.

United Way Toronto would like to congratulate the government and all members of the Legislature who have supported this bill so far for the recognition of the need to update the regulatory framework for not-for-profit corporations. We expect that this legislation, if passed with a number of small but important amendments, will make it easier for community non-profit organizations to flourish, to operate in an open and accountable way and to better serve their members' interests, as well as the broader public interest.

Over the course of more than 50 years of building community, United Way Toronto has seen the powerful impact that effective local non-profit organizations can have on meeting urgent social needs. For example, we note with great interest the decision of the government of Ontario to develop and implement a poverty reduction strategy. We support this goal wholeheartedly and wish to point out that community non-profit organizations in various forms have been on the front lines of poverty reduction in Ontario for many decades, many of them long before United Way came into existence. These organizations are worth supporting in their own right and also to help Ontario meet broad social and economic goals, such as poverty reduction.

We are pleased to note the all-party support in the unanimous vote in favour of Bill 65 at second reading. We are here today to add our voice to that of our partners in the community non-profit sector and show our support for this bill. United Way Toronto has worked closely with the Ontario Nonprofit Network, including participating in the ONN working group on legislation that prepared the ONN's brief to this committee. We encourage the committee and all members of the Legislature to take careful note of the ONN brief on Bill 65. The Ontario Nonprofit Network has done a very good job at something that we know can be quite challenging: finding a common voice and policy advocacy position supported by so many organizations across our diverse sector.

We also wish to acknowledge the effort made by the government of Ontario to promote a good public discussion about the non-profit sector's regulatory framework. United Way Toronto has been involved since 2007 in consultations on several discussion papers published by the Ministry of Government and Consumer Services regarding the current Corporations Act, and this included United Way Toronto staff representation on the ministry's online reference group, which provided advice to ministry staff.

There are two features of the bill that we support in particular. One is the designation of a public benefit corporation. We support this new designation of a public benefit corporation, or PBC. As a charity, United Way Toronto and any other charity would meet the designation. We see merit in allowing this designation for non-profits that may choose not to register as charities but still wish to assure potential partners and investors that their work advances the public good. The key is that a PBC would retain its assets for the public good and could not distribute its assets and property to its members upon dissolution.

We are very supportive of this legislation's clear recognition of the right of non-profit organizations to engage in commercial activities, provided that revenues are used to forward public benefit objectives. So long as commercial profits are subject to robust non-distribution constraint to prevent the personal enrichment of directors, members or staff, this provision can be very helpful. It can allow for innovative and entrepreneurial activity such as social enterprise, allowing people and organizations that may face social and economic challenges to create and pursue their own opportunities for prosperity and stronger community.

There are also three features of the bill that we believe require amendment to strengthen this legislation, and I will describe them now.

With respect to the definition of a public benefit corporation, first of all, Bill 65 defines a PBC based on whether a non-profit receives more than \$10,000 in grants, gifts or donations. However, we do not believe that the funding source is the relevant criterion. Rather, any registered charity should automatically be considered a PBC regardless of the level or source of its funding. Furthermore, any non-profit that chooses to do so should be able to self-designate as a PBC and accept the attendant responsibilities, such as a lock on the distribution of assets and more stringent audit provisions.

Secondly, the bill, as written, includes a three-year lock on the assets of the PBC. This temporary lock is inadequate, and the bill should instead be amended to make it permanent. This will avoid the potential of an organization to solicit gifts, grants or donations for supposed public benefit and then subsequently use those funds to personally enrich its members upon dissolution. A public benefit corporation should, however, be able to make a gift of its assets upon dissolution to another public benefit corporation.

Thirdly, with respect to community bonds, we see merit in the suggestion of the Ontario Nonprofit Network to include provisions for non-profits to issue community bonds, similar to the provisions in the Co-operative Corporations Act. This would allow non-profits to issue offering statements to potential bond purchasers that will increase public confidence in the risk assessment associated with their investment decision.

In conclusion, we support the broad intent of this legislation and encourage members of this committee to note the recommendations for three amendments to

strengthen it. Thank you for the opportunity to make this submission.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Alexander. To the NDP. Mr. Kormos, about one and a half minutes.

Mr. Peter Kormos: Thank you, sir. This whole business of a public benefit corporation: You take a look at the definitions, and it is a little whacky because it's circular. A charitable corporation is defined in the bill not by being a registered charity, but the bill creates a new definition of what a charitable organization is.

1350

I'm thinking—I'm trying to put this in context—of the Croatian National Home down on Broadway in Welland. I'm wondering whether they would be entitled to avail themselves of Bill 65, because it's not a public purpose, it's not fully charitable and it's not fully educational. I'm hearing what you're saying, and I'm interested perhaps in getting some help from policy people or government people about how the Croatian National Home, for instance, would be able to use Bill 65 for its corporate structure. Would there be any bars there?

What sorts of examples are you thinking of? You made me think of the Croatian National Home. What were you thinking?

Mr. Peter Alexander: I wouldn't want to comment on the specifics of that particular organization—

Mr. Peter Kormos: No. You made me think of it. Who are you thinking of?

Mr. Peter Alexander: Well, for example, I recall comments made at one of the first public meetings, an opportunity for discussion on one of the government's discussion papers, where a gentleman commented that people in his community—and it might be any community with an ethnocultural focus or a different focus—would perhaps not be able to encourage traditional investors to support their projects. Maybe the banks for some reason decide that they're not creditworthy to their standards. They'd like to be able to create a non-profit structure into which people could put money so that other members of the community could have start-up funds for a business or some such, but for—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Mr. Kormos. To the Liberal side, Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for taking the time to come in today and for being involved; as you said in your notes, you've been involved with the consultations since 2007. You've raised some very good points throughout your presentation and I appreciate the time and effort that you've put into this. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: Thank you very much. I would like to go to page 2 of your submission, where you're talking about the right to engage in commercial activities. I know that there have been examples for years and years of people who have been able to have these side by side with the not-for-profit activity.

This wording: Do you see any problem with the wording in terms of how it might be interpreted by people who are in the private sector or people who are in the not-for-profit sector? I guess what I'm asking you is, do you think it's clear enough?

Mr. Peter Alexander: I believe it's an improvement on what the status quo represents, so in that sense, yes.

What I've heard from lawyers in the non-profit sector with more expertise than me, frankly, is that it's very likely currently permitted, so this is merely clarifying current provisions. We believe it's always helpful if people don't need to go and consult, necessarily, at considerable expense with lawyers, but can read in the legislation that it's okay. So for that—to the extent to which it's broadly understood in the public, then there may be more communications work, to take a dry statute and explain what the options are for non-profit organizations, but we believe it's sufficiently clear for the statute and an improvement on the status quo.

Mrs. Julia Munro: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Mr. Alexander, for your deputation on behalf of United Way Toronto.

SPORT4ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Emin for Sport4Ontario. Please come forward.

Welcome, and I invite you to please be seated. We'll distribute that for you.

Ms. Margaret Emin: We ran out of paper, so it's a little short, but I think there's one for everyone here.

The Chair (Mr. Shafiq Qaadri): Great. Please begin.

Ms. Margaret Emin: As you said, I'm Margaret Emin. I'm the volunteer chair of Sport4Ontario, a non-profit organization that aims to build capacity within sport organizations within the province of Ontario. Of course, we applaud the government of Ontario for taking the lead to modernize the legal framework governing Ontario's non-profit organizations. Sport4Ontario was pleased to submit written responses to all three consultation papers.

In Canada, sport organizations exist at the national, provincial, regional and the community or grassroots levels. Although the majority of the media attention focuses on our national athletes on the world competitive stage—for example, the 2010 Vancouver Winter Olympics and Paralympics and the upcoming 2015 Pan/Parapan American Games—sport happens, for the most part, at the community level. Regardless of the level, sport is organized, supported and enabled largely by volunteers and non-profit organizations.

I'd like to just give you a very brief snapshot of the sport and recreation sector in Ontario. There are approximately 7,500 sport and recreation organizations in Ontario. This represents about 16% and is the second-largest component of the non-profit sector. Seventy per cent of sport organizations serve a single neighbourhood, city, town or rural municipality; 46% serve children and

youth; and 71% have been in operation for over 20 years. Financial resources are typically modest: 72% of sport organizations report annual revenues of less than \$100,000. Volunteers are key, clearly, but there are challenges in recruiting volunteers, especially board members. The sector employs about 44,000 employees, with 46% employed on a part-time basis, and 75% of sport organizations have no staff. The list goes on.

I hope this brief overview gives you a greater understanding of the sector—our numbers, our scope, our reach and our significant volunteer support—and hopefully establishes the context for my comments.

Is Bill 65 important to the sports sector? Absolutely. Any attempt to modernize and streamline the legislation with respect to incorporation and governance of non-profits is most welcome, and we support the essence of this legislation. But is Bill 65 all that it can be? It's so close but not quite, and that's why we're here. This is a pivotal moment for Ontario's non-profit sports sector.

Our submission speaks to the legislation, so I would just like to point out a few key sections. Please note: We absolutely endorse and support the submission of the Ontario Nonprofit Network.

First, public benefit corporations: We support the new designation, but Bill 65 proposes that to qualify as a public benefit corporation certain criteria must be met. We would submit that based on the current criteria, the majority of sport and recreation organizations in this province would not qualify because the majority are not in receipt of \$10,000 of government funding, donations and/or grants. We submit that sport and recreation organizations are public benefit corporations, and we further submit that the need for and/or dependency on government funding our donations for sustainability in no way should determine an organization's public benefit designation. Our recommendation: The receipt of government funding and/or gifts has no place in this definition. The intent to serve and benefit the public should be the defining criterion.

The second would be standard of financial review. We recognize the increasing public scrutiny of not-for-profit organizations coupled with revised and strengthened audit standards that have resulted in costly and more complex annual audits. While we support this call for increased transparency and accountability, we submit that the accountability must be reasonable and commensurate with the risk. The \$100,000 threshold would create an unnecessary and excessive administrative and financial burden for a significant percentage of sport organizations in this province. We believe that public benefit corporations and non-public benefit corporations with annual revenues of under \$500,000 should both be permitted to dispense with an audit in favour of financial review or financial statement review engagement.

Non-voting members: When I read this section of Bill 65, I thought of the four-year-old going off to their first swimming, hockey or skating lesson. They were at that point, by virtue of probably their program fee, a member of a provincial or local organization. Based on Bill 65

and the rights of a non-voting member in certain instances, we'd be sending off a notice of an annual general meeting to all the four-, five- and six-year-olds in this province, and in certain circumstances a parent or guardian would be voting on their behalf. We feel that unless the member has an economic interest within the organization, there is no policy rationale for conferring voting rights to non-voting members.

1400

Use of proxies: We recognize and we acknowledge that proxies play a very important role for some organizations, but others deem it not essential or not appropriate for their organization. Our recommendation is that you amend Bill 65 to recognize that proxy voting is mandatory unless otherwise provided for in the articles or bylaws of the organization.

Directors' liability: very key for the sport and recreation sector. We are very reliant on volunteers. I believe the number is 1.1 million in this province, for a total of 122 million volunteer hours per year. In today's increasingly litigious environment, it is one of the many reasons, but not the only reason, that it is often difficult to recruit and retain volunteers to serve as board members. Bill 65 makes no provisions for a liability shield for directors and officers of non-profit organizations. We recommend that you insert such a clause into this legislation similar to that of Saskatchewan's Non-profit Corporations Act, which is, in our opinion, at this stage the most progressive provincial legislation dealing with director and officer indemnification and limited liability to date.

And of course, finally, understanding that on occasion the appointment of a new minister can delay the process, such as this, we urge you to maintain the current momentum and work with the non-profit sector to fine-tune and pass expeditiously this new piece of legislation that meets both the Ontario government's goals and the non-profit sector's needs.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Emin. We have 20 seconds per side. Mr. Johnson.

Mr. Rick Johnson: Thank you for your very thorough presentation here. You've raised a lot of issues which we've been hearing throughout the day, and I appreciate the effort that you've put into—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Mr. Arnott or Ms. Munro?

Mrs. Julia Munro: I'd just thank you for a very thorough presentation that we'll be able to review.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro. Mr. Kormos.

Mr. Peter Kormos: I join my colleagues in thanking you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thanks to you, Ms. Emin, for your deputiation on behalf of Sport4Ontario.

We have another telephone conference. Do we have our participants online?

INSTITUTE OF CHARTERED
ACCOUNTANTS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We'll move to our next presenter, Mr. Warner of the Institute of Chartered Accountants of Ontario, if you're present. Please come forward. You have the floor. Welcome. Please be seated. You've seen the drill and I know you know your way around here, so please begin.

Mr. Tom Warner: Thank you. Good afternoon. My name is Tom Warner, and I am vice-president and registrar of the Institute of Chartered Accountants of Ontario.

Ms. Elizabeth Cowie: And I'm Elizabeth Cowie, the director of legal and regulatory affairs for the institute.

Mr. Tom Warner: The institute is pleased to speak on behalf of Ontario's 34,000 chartered accountants with respect to Bill 65, the Non-for-Profit Corporations Act.

I'd like to frame our remarks around the necessary distinction between what we see as the intent of the bill and its likely effect. Bill 65 aims to ensure that the public interest and the interests of the members of not-for-profit corporations are well served in the management of organizations such as service clubs, community organizations and sports clubs, so of course we support the intent of Bill 65. Our concern is that Bill 65 would also apply to regulatory bodies like the institute that are established by other legislation to protect the public interest and be publicly accountable.

In our case, the Chartered Accountants Act, 2010, updated our regulatory authority, including strengthening our investigative and disciplinary processes. It permits the institute to adopt bylaws to carry out these regulatory responsibilities. The bylaws that our members vote to adopt would, in many instances, be in conflict with Bill 65. The result would be significant impairment of the institute's ability to regulate our profession and the members who practise it.

Our public interest mandate is also governed by the Public Accounting Act, 2004, the Statutory Powers Procedure Act, the Fair Access to Regulated Professions Act, trade rules, external audit requirements, the Canadian Public Accountability Board and the SEC requirements in the US.

The other area of concern is that Bill 65 would enable the minister to make regulations governing the report to be made by auditors on the financial statements of not-for-profit organizations, including prescribing the standards of an accounting body. These would create confusion over the authority granted to the Public Accountants Council by the Public Accounting Act, 2004. Specifically, that authority enables the PAC to adopt standards for the qualification and regulation of public accountants that all accounting bodies' practitioners must ensure their licences comply with.

It could also lead to a conflict between the standards that auditors of not-for-profits are directed to follow by the minister under Bill 65 and those they are required to follow under the Public Accounting Act.

Both the institute and the Public Accountants Council are very concerned about the risk of causing a conflict with already legislated standards, particularly in the areas of professional judgment and skepticism, both of which are essential tools for a professional accountant.

Ms. Elizabeth Cowie: We are a regulatory body. Frankly, if our members are happy with what we're doing, we're not doing our job. There are a number of provisions in the bill that are problematic for a regulator in this regard.

Bill 65 provides for disciplining members of a not-for-profit. This assumes the corporation is not in the business of disciplining members, yet disciplining members is an essential part of our mandate and one for which we have sophisticated processes, including those required by the Statutory Powers Procedure Act. But because the specific requirements in the bill are not addressed in the Chartered Accountants Act, 2010, they would apply to our discipline process and hamper our ability to deal effectively with professional misconduct.

For example, Bill 65 permits a member to apply to the court for a rectification of records. Expelled members could thereby regain the right to practise without meeting any of the requirements for competence and integrity.

Bill 65 would also give members the ability to apply to the court for an investigation of the corporation. The powers of an investigator are broad; the requirements to co-operate, equally sweeping. A disgruntled member could seriously impede our mandate by an intrusive investigation, including compelled production of documents, testimony under oath, public reports and court orders. This conflicts with the confidentiality necessary to regulation and it presupposes that the member has no other recourse, such as judicial review. This is not the case.

The act also permits a member to bring, intervene in, discontinue or defend an action in the name of the corporation. Such a power could easily be abused by a vindictive party and is unnecessary, given the objects and oversight of the institute.

Bill 65 does state that in the event of a conflict with another act to which the entity is subject, that other act prevails. Yet while our legislation is more specific than its predecessor, several critical matters were deliberately left up to us to manage through bylaws. This allows us to adopt measures appropriate to our role and to ensure that our regulatory processes reflect changes in the law and jurisprudence. But we cannot, by the use of bylaws, override Bill 65, so we'd be forced into processes contrary to the intent of our own governing act.

Given the legislation to which we're already subject, and our regulatory mandate, Bill 65 does nothing to protect either the public interest or the legitimate concerns of our members. Instead, it would strangle our ability to act in the public interest in a flexible, timely and effective manner.

Mr. Tom Warner: To conclude, we know the government has recognized some of the potential drawbacks of Bill 65, notwithstanding its honourable intent, most

notably by exempting the health professions. We would therefore submit that there is an equally compelling case for explicitly exempting from Bill 65 the Institute of Chartered Accountants of Ontario and other regulatory bodies established by a general or special act of the Legislature as well.

In that regard, the institute has been requested, by the Public Accountants Council, to advise this committee that they share the concerns we have expressed about the potential confusion and conflicts over public accounting standards that could arise from Bill 65 in its current form. The Public Accountants Council also requests that it be exempted from Bill 65.

Thank you, and we'd be pleased to take any questions that you may have.

The Chair (Mr. Shafiq Qaadri): Thank you. A minute per side; Mr. Arnott or Ms. Munro.

Mr. Ted Arnott: Thank you very much for your presentation. It is most sincerely appreciated by our side.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos?

Mr. Peter Kormos: You're making a point that several other presenters did today as well. It's an interesting oversight on the part of the government. A new minister won't make a difference. They don't write this stuff; they just get handed the speeches and this will move along as quickly as the government wants it to. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Liberal side, Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. I said earlier, at the end of the morning procedures, that there are a number of ministries that are involved in a number of these amendments as they come forward, and we recognize that there are discussions that have to take place between the ministries. I appreciate your presentation and look forward to—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you, Mr. Warner and Ms. Cowie, for your deputation on behalf of the Institute of Chartered Accountants of Ontario.

We're still trying to connect with our teleconference, but do we have Mr. Frampton of the Canadian CED Network/Learning Enrichment Foundation? Mr. Frampton?

Interjection: He's on his way.

The Chair (Mr. Shafiq Qaadri): Is Ms. Fair, of St. Christopher House, here?

Mr. Dunn, of the Foster Care Council of Canada, was also a teleconference.

Mr. McNamara?

All right. We're going to take a 10-minute recess to regroup here.

The committee recessed from 1411 to 1421.

ST. CHRISTOPHER HOUSE

The Chair (Mr. Shafiq Qaadri): We'll reconvene. Is Mr. Frampton of the Canadian CED Network present? Mr. Frampton?

If not, I'll invite Ms. Fair of St. Christopher House to please come forward. You've seen the drill. Please be seated, and I invite you to begin now.

Ms. Maureen Fair: My name is Maureen Fair. I'm the executive director of St. Christopher House. It's a not-for-profit charitable organization in downtown west Toronto with almost 100 years' history. We're a large-sized organization, almost \$9 million.

Some of the parts of this bill don't affect us directly, but we work in partnership with many smaller organizations, so we had some observations to share. Generally, we support the detailed recommendations of the Ontario Nonprofit Network, of which we're a member. I'm only going to note a few sections today that we have some particular interest in.

Overall, we really support the designation of the public benefit corporation. That's a very helpful distinction because we believe there's significant confusion amongst many decision-makers and the public about what's a not-for-profit, what's an NGO and what's a charity. I think this will go some ways to clarifying that.

I also think we would recommend the legislation be followed up with public education about these changes. We share ONN's concern about using source of income as a defining factor and instead recommend that the public benefit corporation designation be self-selected as we do with charities.

We also believe very strongly that the assets of a PBC should remain permanently for the public good. The assets were probably required under the assumption that they would be used for the public good. I believe this recommended change to Bill 65 is particularly timely and important for preserving social housing as a public good permanently, but it also applies if mergers happen between not-for-profits and businesses and in other possible scenarios.

I believe you've heard already today about some of the confusion about the part of the legislation that dictates that no more than a third of directors of a board may be officers or employees of the corporation. It does make sense to me that employees are captured by that, but the rationale for restricting the proportion of officers such as the board chair or board president—the logic escapes me. I just might be missing something there. We do note that if the minimum size of the board is three directors, which is a bare minimum, and all three are officers, which is good board governance, why compel the board to have to increase to nine members? This section either should be clarified or deleted.

I also want to note proxy votes probably also need to remain as an option for organizations. Our organization explicitly prohibits them in our bylaws. They can be misused—there have been abuses in the past—and I think

it's up to organizations and their membership to determine that.

As I say, we work in partnership with many smaller organizations, many of whom don't have the resources to be fully prepared to take on full examination of Bill 65. So at the risk of speaking for them, we support increasing the threshold that requires an audit for them. There needs to be a proportion, a sense of balance between the amount of resources a small organization has, the level of accountability required of them and the costs of that accountability. It's particularly the high and rising costs of audits that we want to flag for you today.

We further support the work in this legislation to limit the liability faced by individual members of boards of directors. We strongly urge you to include some shield there for volunteers on our boards. We are finding as we recruit for St. Christopher House, a fairly stable, well-established agency, that knowledgeable volunteers raise this repeatedly as a concern. It may have some detrimental effect on recruiting good board members in the future.

These items and the ONN's more detailed recommendations specify changes that we see as proper for good implementation of Bill 65. Overall, I want to reiterate that St. Christopher House appreciates and supports the intent of Bill 65. We see it as an important opportunity for clarifying the roles of not-for-profits in Ontario with both the government and the public.

The Chair (Mr. Shafiq Qaadri): Thank you. About a minute and a half or so per side, perhaps more. Mr. Kormos.

Mr. Peter Kormos: I'm fine, Chair. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Colle.

Mr. Mike Colle: I just wanted to thank St. Christopher House for the presentation, being a former recipient of the good services of St. Christopher House when you used to be in Kensington Market, long before you were born. But I know the great work you do at Dundas and Ossington and I know how much you help, as you said, the smaller fledgling organizations that don't have the resources, and it's important to speak for them too. So thank you very much and I thank the good people at St. Christopher House.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Ms. Munro.

Mrs. Julia Munro: Thank you very much for coming forward with these comments. I wondered if you would just give us a sense of whether or not the bill, as it stands right now, around the issue of limiting liability—is that clear enough for people or would you be looking for further explanation, if you like, or direction?

Ms. Maureen Fair: I think it should be very specific and much more clear and I think, again, there's probably a need for some public education about this after the legislation is implemented.

Mrs. Julia Munro: I guess I'm looking for any wording that you might recommend that would help clarify,

because I agree with you that it is an area about which people have a great deal of reservation.

Ms. Maureen Fair: I don't have any ready here, but we can consult—our colleagues at Ontario Nonprofit Network may have.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Fair, for your deputation on behalf of St. Christopher House.

FOSTER CARE COUNCIL OF CANADA

The Chair (Mr. Shafiq Qaadri): Is Mr. Frampton present? If not, we have on teleconference Mr. Dunn of Foster Care Council of Canada. Are you there, Mr. Dunn?

Mr. Peter Kormos: Maybe he's French-speaking.

The Chair (Mr. Shafiq Qaadri): At least someone is, Peter.

Thank you, Mr. Dunn, for Foster Care Council of Canada. You have 10 minutes in which to make your presentation. Committee is on standby. Please begin.

Mr. John Dunn: Okay, hello. I just want to make sure audio is good. Does everything sound good? I can't hear anybody, so I hope I can be heard well.

The Chair (Mr. Shafiq Qaadri): Yes, we're fine. Go ahead, Mr. Dunn.

Mr. John Dunn: Okay, great.

The reason I'm calling is as the executive director of the Foster Care Council of Canada. We advocate for transparency and accountability in child welfare. Specifically, there are two parts of the act I want to speak to. This will be pretty brief.

The part that I'm going to speak to is the section with regard to members. Currently, the Corporations Act that's in existence today—it's sections 306 and 307—allows members under 306 and non-members under 307 to request the list of existing members for advocating for policy changes, bylaw changes, things like that. You request a list of the members and then you write a letter to the members asking them to requisition the board for a meeting to discuss the issue or policy that you want to be changed. Under section 295, that's where the process gets done.

1430

Under the new bill, Bill 65, it proposes to remove external input, so now it will be members only who can request a list of members. In many non-profit circumstances that might be okay and completely fine, because who else should have concerns? In the case of children's aid societies, they are non-profit corporations that are mandated into people's lives, so you have people who have their lives seriously affected by them and have no choice other than, at many times, to advocate for changes to policies through membership requests for a list of members. This will remove that ability for them, because the corporation of the CAS often does not allow people who are involved with CAS to become members. This is a common thing I'm hearing across the province.

With the lack of Ombudsman oversight of children's aid societies, with the Child and Family Services Review Board, which is a complaint body that actually has no power, because it's exempted from the powers and procedures act that most tribunals have—as you know and as many people are aware, the tribunal only has administrative power; it doesn't deal with a lot of the issues that are seriously affecting lives. So I'm hoping that there is an additional section similar to 307(1), (2), (3), (4), (5) and (6) of the Corporations Act that exists today that could be added for non-members to request lists.

Charges have been brought against Sudbury children's aid before. I'm currently involved in charges against the Ottawa CAS, prosecuting for failing to furnish a list of their members. So there are issues that need to be addressed by non-members, because if they exclude people who are advocating for changes simply because of that fact, then it's yet another level of accountability that's not available.

That's my presentation for today, and I'm open to any questions.

The Chair (Mr. Shafiq Qaadri): Thank you very much. Are you finished with your presentation, Mr. Dunn?

Mr. John Dunn: Oh, just subsequent to that—sorry, yes, but I have one last thing. Part of the act, I believe, talks about the different types of non-profits, and I think that maybe you could create another type—for example, children's aid—where citizens' lives are forcefully affected by a certain type of non-profit. Subsequent to this, maybe we could talk about it at another time or through questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dunn. We'll now move to the Liberal side. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. You've raised some interesting situations and points. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Johnson. The PC side: Mr. Arnott or Ms. Munro, as you wish?

Mr. Ted Arnott: Thank you very much for your presentation. It's sincerely appreciated.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Arnott. Mr. Kormos.

Mr. Peter Kormos: Thank you, Mr. Dunn. There is some hope, because you'll recall the government's enthusiastic reappointment of Ombudsman André Marin. Mr. Marin, as Ombudsman, has strongly advocated for Ombudsman oversight of children's aid societies. The government's dragged its heels on that one, but if Mr. Marin keeps up the pressure, I suspect that Mr. McGuinty would be pleased to accept his recommendations in that regard.

Children's aid societies are, in my view, a bit of an anachronism. I'm an advocate of the abolition of children's aid societies, of putting that service under direct government control. That's where it belongs and that's where there's political and individual accountability and responsibility. So keep up with your advocacy, please.

Mr. John Dunn: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, and thank you, Mr. Dunn, for your deputation on behalf of the Foster Care Council of Canada.

Mr. Kormos, just in reply to your query about French, nos présentations sont interprétées par M. Couto.

Mr. Peter Kormos: Of course.

The Chair (Mr. Shafiq Qaadri): They're simultaneously translated in French.

LEARNING ENRICHMENT FOUNDATION

CANADIAN CED NETWORK

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Mr. Frampton. Welcome, Mr. Frampton. You've seen the drill: You have 10 minutes in which to make your presentation. I'd invite you to please begin now.

Mr. Peter Frampton: Thank you very much. I appreciate this opportunity. I'm Peter Frampton, the executive director of the Learning Enrichment Foundation. We're a charity in the northwest corner of the city, formerly known as the old city of York. We serve Ontario's second-poorest riding, York South-Weston. Our mission is to enable individuals and their families to become full participants in their communities' economic and social development, and we do that by providing child care services, settlement services, language training and skills training that is targeted to local jobs and job placement services.

As a founding member of the Canadian Community Economic Development Network, I'm also, at their request, speaking on their behalf today.

The proposed legislative changes are an exciting movement forward for the sector, and both LEF and the Canadian CED Network are supportive of the recommendations in the brief that has been given to you by the Ontario Nonprofit Network. I'd like to call your attention to a few issues that I hope are not forgotten during your line-by-line review of the proposed legislation.

First and foremost, public benefit corporations should be assumed to be involved in commercial activity. Just as today child care is offered both by for-profit and non-profit organizations, that right must be clearly enshrined. At LEF, our kitchen competes with the private sector, but it also acts as a training ground that enables over 50 students a year to find employment in their field, and it feeds every day over 500 homeless in partnership with Second Harvest. Maintaining our ability to work in both realms simultaneously is essential to our being able to meet community needs in a highly efficient and effective manner.

Secondly, public benefit corporations must be allowed to issue community bonds. As we look to the upcoming changes in child care that have been brought about by the introduction of all-day learning, one of the solutions for us is to issue community bonds that will enable us to make the investments we must to transition our service

delivery model and remain a support that is desperately needed in our local community.

That's but one example, and I'm assuming that you've heard many examples over the course of today and that you'll hear many more. Suffice it to say, without the means to attract investment and act within the marketplace, public benefit corporations will not be able to meet the unique needs of local communities, leaving local concerns solely in the hands of government to solve.

Finally, accountability is a must. The current three-year asset lock being suggested is not stringent enough. We enjoy a high degree of community trust and believe quite strongly that the asset lock needs to be permanent. Anything less is not representative of our values or the expectations of our stakeholders. We ask that the recommendations made by the Ontario Nonprofit Network be taken into consideration and that the significant time spent by the community in assisting you in making suggestions for your clause-by-clause review be adopted.

Thank you for your leadership and for moving things forward in creating a legislative paradigm that we believe reflects the emerging realities of the communities these corporations serve. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Frampton. To Mr. Arnott or Ms. Munro, two minutes per side.

Mrs. Julia Munro: I think people have seen over time the relationship with a not-for-profit being able to undertake certain entrepreneurial activities. How do you envision that this legislation will strengthen or alter what has traditionally been available? The first example I think of is the gift shop in a hospital. Where are we moving to, in your view?

Mr. Peter Frampton: I think it's the clarity around it that is so important. Just having that mentioned, having it talked about, is the bit that's missing.

Mrs. Julia Munro: Can I ask one other question?

The Chair (Mr. Shafiq Qaadri): Please. You have two minutes. Go ahead.

Mrs. Julia Munro: With that, do you think there would be organizations that are small—we know that there are many that are quite small. Would that become difficult for them from the point of view of record-keeping and things like that? I mean, is there going to be with it a new transparency that would be challenging?

Mr. Peter Frampton: From what I've read, the type of documentation and the audits and whatnot that is being suggested is prudent. There's benefit to being a charity, there's benefit to being a public benefit corporation, and there are obligations that go with that. I don't see those recommendations as being overly burdensome.

Mrs. Julia Munro: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Thank you kindly. You called the legislation exciting. You're the first person to do that in years.

Mr. Peter Frampton: I've spent too long doing social enterprise.

Mr. Peter Kormos: You could end up on a government billboard: "Frampton says 'Exciting!'" But good for you. I appreciate your interest. You're obviously saying some of the same things that other people are saying. I don't know about the three-year rule; I don't know what the rationale was for that. We'll get a chance, I suppose, when we get into clause-by-clause to discuss it, if the government doesn't bring an amendment already.

The interesting observation—other people have made it too—about the non-profit and the for-profit sectors: They compete with each other. They do. I come from small-town Ontario, right? I get complaints from the tavern owner about the Legion, because the Legion has good beer prices. Ted Arnott's a member of the Legion—I've seen his membership card—and he could tell you about the beer prices. So the tavern owner, who's struggling, complains about some of the little ethnic clubs. It's all volunteer workers in those places. It's an interesting tension. I don't know how it gets resolved but I do appreciate your comments.

1440

Mr. Peter Frampton: In my mind, the only difference, really, in the activity is: Who's the shareholder? And in a public benefit corporation, the shareholder is the community, and so it's how one maintains the assets.

Mr. Peter Kormos: But this morning we had somebody from the funeral industry in here complaining about—I'm not going to take on the Catholic church—Catholic Cemeteries, and them low-balling cemetery costs.

Interjection.

Mr. Peter Kormos: So there you go. Are you going to take on the bishop, Mike?

Interjections.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos.

To the government side, Mr. Colle.

Mr. Mike Colle: I won't talk about altar girls and altar boys. I tried that one time.

Anyway, Peter, thanks very much for coming. I know the great work that LEF does. I wonder what Donald Macdonald would say about this legislation. No, but I don't want to go there.

Just in terms of the interesting thing that you do, I know that you train kitchen staff, chefs and preparers, and then you sell some of that food product out to the private sector, right?

Mr. Peter Frampton: Well, we sell to our child care centres and we do catering as well and whatnot.

Mr. Mike Colle: In competition with the—and then the point that you made about how this legislation might pertain to that activity that you engage in; I wasn't quite sure.

Mr. Peter Frampton: Because we're involved in that commercial activity, we're also able to work in partnership with Second Harvest and feed over 500 homeless people a day. So, as a non-profit, you bring together many motivations within that economic activity. That

type of leverage is something that I would hope could be clearly enshrined.

Mr. Mike Colle: Okay. Thanks, Peter.

The Chair (Mr. Shafiq Qaadri): Thanks, Mr. Colle, and thanks to you, Mr. Frampton, for your deputation on behalf of the Learning Enrichment Foundation.

SOCIAL PLANNING COUNCIL
OF KITCHENER-WATERLOO

COMMUNITY INFORMATION CENTRE
OF WATERLOO REGION

The Chair (Mr. Shafiq Qaadri): We'll now move to Ms. Beaulne, the executive director of Social Planning Council of Kitchener-Waterloo, who I understand we have online. Are you there, Ms. Beaulne? Ms. Trudy Beaulne, are you there?

Ms. Trudy Beaulne: Yes. Can you hear me?

The Chair (Mr. Shafiq Qaadri): This is Dr. Qaadri, chair of the social policy committee. You have 10 minutes in which to make your presentation. The committee is on standby. I invite you to begin now, please.

Ms. Trudy Beaulne: Okay. Can I close my door and put you on speaker or do I need to keep you on a handset?

The Chair (Mr. Shafiq Qaadri): You may do whatever you wish.

Ms. Trudy Beaulne: Okay. I will do that. Give me, maybe, 30 seconds.

Can you hear me?

The Chair (Mr. Shafiq Qaadri): Yes. Please go ahead.

Ms. Trudy Beaulne: Wonderful. Thank you for this opportunity to speak to you today. Bill 65, the proposed Not-For-Profit Corporations Act, is an excellent start to well-needed legislation. As the complexity of the non-profit environment increases and rapid social change is taking place, non-profit, voluntary and community-based organizations need all the help we can get to do our jobs well. The expectation we have for this legislation is greater clarity around what we should be doing, what our expectations and guidelines are to make it easier for organizations to fulfill our mandates in a responsible way. This is especially so for small and medium-sized organizations that do not have the resources to devote to professional support to help them interpret and navigate requirements. In short, we want to be transparent and appropriately accountable to our various stakeholders. To this end, I'm speaking today to support the recommendations that the Ontario Nonprofit Network has put forward, both in their brief and in their presentation earlier today.

In addition, I want to emphasize some features that I, in my own organization, believe to be highly important. First, we applaud defining a public benefit corporation designation and we welcome having this designation differentiated from non-profits. However, the basis for defining a public benefit corporation should be the man-

date of the organization, not its funding levels or funding sources. Please allow for organizations to self-define their mandate, and then provide the guidelines to ensure we are effective and accountable.

Public benefit corporations should have assets locked permanently and there should be no option to distribute these assets except for a public benefit, as we have now with charitable organizations. Public benefit corporations should not distribute assets to directors, officers or members unless those members are similarly defined as public benefit or charitable corporations. Directors and officers should not receive remuneration except to reimburse for out-of-pocket expenses. Furthermore, clear conflict of interest should be expected and maintained to keep a separation between the leadership of an organization and the fund allocation. Anything that starts to blur that line can introduce all sorts of issues and problems, which is not the direction that we'd want to go in.

Staff should never be voting directors in a non-profit organization and certainly not a public benefit corporation, nor should senior management staff be able to become a director in the event of all directors leaving. This is a dangerous direction for small organizations that often struggle to maintain boards.

We welcome clearer differentiation regarding membership so that public benefit corporations with membership are clear on the requirements, which likely should differ from a member association that exists to benefit their membership only. Reducing ambiguity around this would be helpful in setting parameters on the expectations and benefits of membership generally, either in the realm of public benefit or membership benefits.

Finally, public benefit corporations should not be permitted to change their designations. Once it has been established as a public benefit corporation, we can't shift because we want to become something else. This could be an invitation for abuse if assets are not locked and an organization can change its legislated accountability. It should be kept simple: If an organization ceases to be a public benefit organization as it had incorporated, it should cease operations, wind down, and then if the leadership of that previous organization chooses to start a new organization, they just start the incorporation process for that purpose.

As stated at the outset of my presentation here, draft Bill 65 is a good first step. Ensuring this legislation helps to clearly distinguish between types of non-profits and between our accountability to our various types of membership. This will go a long way to make it a useful tool to set up and govern our community organizations.

Thank you, and if you have any questions, I'd be happy to respond.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Beaulne. A minute and a half per side; Mr. Kormos.

Mr. Peter Kormos: No thank you, Chair. Thank you very much, ma'am.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation. It's very informative.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I would just like to echo the comments of thanks, and particularly suggest to you how clearly you have identified specific areas that you think we should make special note of. I appreciate that very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Beaulne, for your deputiation on behalf of the Social Planning Council of Kitchener-Waterloo.

Ms. Trudy Beaulne: Thank you and good luck.

The Chair (Mr. Shafiq Qaadri): We will now move to our next presenter, Mr. John McNamara.

Is Mr. Steve Farlow here of Capacity Waterloo Region?

Ms. Cullingworth, Skills for Change?

Second regroup now in force. Recess for 10 minutes.

The committee recessed from 1448 to 1458.

MR. JOHN MCNAMARA

The Chair (Mr. Shafiq Qaadri): Members of the committee, I would now invite Mr. John McNamara to please come forward and begin his presentation. You'll have 10 minutes in which to make your presentation. We've already received, I think, your written submission.

Mr. John McNamara: Yes, this is the new one. It's just a few words. I should have much more, but—

The Chair (Mr. Shafiq Qaadri): That's great. Thank you. We'll make sure that gets to where it needs to go. Please be seated and please begin.

Mr. John McNamara: Thank you. I am honoured and humbled to be addressing you today on Bill 65, which, in my opinion, is most satisfactory and should be passed with only a few changes regarding several minor parts.

In part II, a change from the Corporations Act: provincial or federal? What are the fees?

In part III: Why 60 days after being incorporated? One hundred and twenty or 90 days should be the better term.

Parts IV and V: what qualifications directors or members must have to be acceptable to you, the Ontario government.

Parts IV, V, VI, VII and IX are acceptable even to me and, God willing, to those that I may choose in any new society or corporation or present ones.

Certain amendments should be made to Bill 65 that clearly define the needs of any society or its chosen roles and corporations.

Finally, I must request that you enter on file special government grants to people, persons handicapped in many ways, in many classes or sects, be they politicians, doctors, nurses, religious leaders, supporters etc.

As a resident of Homes First Society for the past 22 years, may I say prudently it is a 75%-plus fundamentally sound organization, but, as most across Canada, has its

shelters or its homes infected with bedbugs, mice, cockroaches etc., and requires special funding. I had to give them \$500 of my old age pension monies to clean up my room and unit.

As a 70-year-old Aquarian male, I beg you all to make Bill 65—society's laws of civil rights and freedom of expression. My Gains, my old age pension, my CPP and health care should be increased—as do others in need.

As a long-time Liberal, I pray to God for your success, goodwill and artful leadership—and also to our possible new mayor of Toronto, George Smitherman, whom I know quite well.

Thank you. God bless. I'll answer questions.

The Chair (Mr. Shafiq Qaadri): Thank you. I would invite the Liberal side to begin. Mr. Johnson, we have about two minutes per side.

Mr. Rick Johnson: I would just like to thank you for your presentation and for your support and encouragement over the years.

The Chair (Mr. Shafiq Qaadri): Mr. Arnott.

Mr. Ted Arnott: Thank you for your presentation this afternoon. We appreciate your participation in this committee today.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: It's nice to see you here, sir. I don't know how George is going to do against Reefer Rob. Do you figure that marijuana cigarette—it was all a scheme just to get the marijuana smokers' vote, do you think?

Mr. John McNamara: I quit smoking four years ago, and I don't take marijuana.

In Tampa Bay, when I was the food director for the Salvation Army, there was a lot of marijuana and I had to deal with it. Then when I had my resort hotel in Jamaica, the marijuana blew in my trees.

Mr. Peter Kormos: So you may have met Rob Ford down there.

Mr. John McNamara: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. It sounds like you're about to convene your own committee.

Thank you, Mr. McNamara, for your presentation and your written submission.

CAPACITY WATERLOO REGION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Farlow of Capacity Waterloo Region.

Gentlemen, welcome. You have 10 minutes in which to make your presentation. Please identify yourselves, and I'd invite you to begin now.

Mr. Steve Farlow: My name is Steve Farlow. My day job is that I work at a centre for entrepreneurship at Wilfrid Laurier University. Some of you know that it's almost as good a job as yours, working with bright young people all day creating enterprises.

My colleague is Andrew Wilding, and together we work as part of an organization called Capacity Waterloo

Region. Would I be right that some of you may know a little bit about that organization?

Mr. Ted McMeekin: I'm a Wilfrid Laurier grad, so I follow that.

Mr. Steve Farlow: It's a terrific initiative to bring innovation into the not-for-profit sector, to take programs and examples that have worked so effectively in Waterloo region in the technology community, bringing innovation to the technology community—to try to take our learning there and bring it to the not-for-profit sector, first in the Waterloo region and, we hope, perhaps cloned into different parts of the province.

In a nutshell, we've learned so much in the technology community. We thought if we could bring leadership to the not-for-profit sector in terms of improving the effectiveness of board governance; bring programs of mentorship and leadership to the not-for-profit community; bring peer-to-peer learning and create examples where not-for-profit organizations can work in networks and learn from each other—we feel very confident that we can improve the capacity and capability of the not-for-profit sector, first in the Waterloo region, but I hope we can learn things that can be cloned across the province.

Andrew and I work together at this with some of our colleagues, as well: a small advisory board, and in particular an executive director in residence who brings mentorship and support to the not-for-profit community.

We'll be succinct and brief here today. We're pleased just to say a few words about Bill 65 and speak in favour of it. Within Capacity Waterloo, we're very laser-beam-focused on really trying to create jobs and increase prosperity in our region; to enhance the competitiveness, as we say, of the not-for-profit community; to, most importantly, improve the quality and effectiveness of leadership within the sector. Very interestingly, we're working hard to help the not-for-profit community in our region improve its use of technology. Finally, it's very important that all of this has a social entrepreneurship component to it as well.

In that context, we're pleased to speak briefly to you today about Bill 65. Like many of the delegations you've had come and speak to you, we feel the time is terrific to make advancements to the Not-for-Profit Corporations Act. Just a few of the comments that Andrew and I would make really support and mirror the Ontario Nonprofit Network submission that has been already made to you. We're part of that network, and we thought it was a succinct and effective overview.

We believe that Bill 65 will make a significant difference in helping not-for-profits become more innovative and entrepreneurial. In Waterloo region, like other parts of the province, we have more than 1,000 registered charities doing vital work, from small arts groups to large organizations like Habitat for Humanity, the YMCA, and a very vibrant social change organization called Lutherwood. All of these are models that we learn so much from.

Again, in support of the Ontario Nonprofit Network submission, there are just a few points we'd like to make to you today. We see the following provisions of Bill 65 to be so important—and I know you're on top of this: one, that the new designation “public benefit corporation” with this act is much more relevant to the charitable sector and makes a clear separation from member benefit corporations. We think you're very wise with this. It allows not-for-profits to engage in commercial activities as long as revenues are used to forward public benefit objectives. This change will encourage organizations to move toward more social innovation and entrepreneurship. Finally, the act is giving more power to organizations to self-regulate through their own bylaws. So we very much commend the work you've done with Bill 65.

Here are just a few of our recommended enhancements—again, not unlike the Ontario Nonprofit Network.

One, a very important issue concerning public bonds: We feel strongly that the public benefit corporations should have access to community bonds to enable them to solicit investments from the public or foundations for initiatives such as capital projects that generate community benefits. We would recommend the adoption of the provisions in the Co-operative Corporations Act that enable the issuings of community bonds and make the necessary changes to allow foundations or philanthropists to invest in non-profit organizations.

Allowing investment in non-profit organizations is completely consistent with legislative changes being made by governments around the world. These approaches to investment and funding share the focus of stimulating positive social and environmental returns for investors and our community as a whole. That's an important point.

Secondly, the audit provision: Bill 65 is lowering the financial audit requirement threshold from \$500,000 in revenues to \$100,000. We—and I think others, too—recommend that you consider keeping the threshold at \$500,000 and require those organizations to provide financial statements. A \$100,000 limit would just be too onerous and costly for so many organizations.

On the issue of directors' liability, there are currently no provisions for a liability shield for directors and officers in non-profit corporations in Bill 65. We would like to recommend that a statutory limitation on liability be included in these legislative changes. As you're no doubt aware, the Saskatchewan Non-profit Corporations Act has this provision right now.

Touching on the use of proxies, Bill 65 would allow every member of non-profit organizations the ability to vote with proxy. This should be left for the organization to decide by having provisions in their bylaws. There is potential for abuse of this provision through existing proxies to individuals that are not members, for example.

But, as I say, we would particularly like to thank again—and there are some representatives here today—the Ontario Nonprofit Network for their submission and

the Wellesley Institute for their good work in reviewing this legislation and making recommended changes.

I would just like to conclude by thanking the government of Ontario for this very positive legislation and for considering these positive amendments. We sincerely hope that you consider our recommendations to Bill 65 and we thank you for your time today. We really appreciate the opportunity to speak to you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Farlow. There are 30 seconds per side. Ms. Munro?

Mrs. Julia Munro: Thank you very much. I appreciate the comments that you've made.

Earlier today we had a presentation that laid out some concerns in terms of the private sector and the kinds of opportunities the not-for-profits have over the for-profit sector. Have you encountered any of those kinds of conversations in your own community?

Mr. Steve Farlow: Thanks; it's a good question. In our own community, we're finding that one of the most innovative and creative aspects of the work we're doing now has been the collaboration of the two sectors, for-profit and not-for-profit, and we're finding many—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Ms. Munro. Mr. Kormos?

Mr. Peter Kormos: Use my 30 seconds to wrap up your answer.

Mr. Steve Farlow: Oh, sorry; I only had 30 seconds.

Mr. Peter Kormos: Go ahead, finish it.

Mr. Steve Farlow: It's working so effectively to bring them together, and we're learning from each other very effectively.

I'll remember the 30-second rule.

Mr. Peter Kormos: No, sometimes it just depends on how much of the 10 minutes you used up. It's okay. Thank you very much, gentlemen; I appreciate it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson?

Mr. Rick Johnson: I appreciate your presentation and the comments you've made. I'm taking notes, so it's much appreciated.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Thanks to you, Mr. Farlow and Mr. Wilding, for your deputation on behalf of Capacity Waterloo Region.

I'll now invite Ms. Cullingworth, Skills for Change, executive director. Are you present, Ms. Cullingworth?

Is Ms. Davidson here, of the Ontario Hospital Association?

We'll recess for 10 minutes.

The committee recessed from 1514 to 1526.

SKILLS FOR CHANGE

The Chair (Mr. Shafiq Qaadri): We'll reconvene. I now invite Ms. Cullingworth, the executive director of Skills for Change. Ms. Cullingworth, you'll note that you have 10 minutes exactly in which to make your presentation. I invite you to please begin now.

Ms. Jane Cullingworth: Hi, everyone. My name is Jane Cullingworth. I'm the executive director of Skills for Change.

Skills for Change is a community-based charitable organization that has been working with immigrants and refugees for the past 28 years. We serve approximately 14,000 clients a year across the GTA, and we provide language training, skills upgrading and employment preparation programs.

We really appreciate the opportunity to give input into Bill 65, An Act to revise the law in respect of not-for-profit corporations.

Bill 65 marks considerable progress in the legislative framework of not-for-profit corporations in Ontario and reflects how the role of the not-for-profit sector in our society has evolved. Our submission focuses on the areas that we believe are most significant to our organization and the sector, and identifies a number of areas that we believe need to be strengthened in order for the bill to work most effectively.

There are three key changes that the bill results in that are being applauded by our sector. One is the creation of a new corporate designation, the public benefit corporation; second is the allowing of commercial activities as long as the revenues are used to forward public benefit purposes; and the third is the removal of the ultra vires doctrine. I'll now speak to the benefits of these three changes.

In terms of the public benefit corporation, this will help to differentiate between non-profit organizations that are designed to serve the public versus non-profits that are membership, benefit-based organizations. These two different types of corporations function quite differently, particularly with regard to the distribution of assets and property upon dissolution. The act further identifies accountability measures for the public benefit corporation such as audit requirements. We believe these provisions will provide greater clarity and confidence to the public.

The second area is commercial activities. The ability to engage in commercial activities is essential for community-based organizations to survive. Not-for-profit organizations have been selling goods and services from their earliest inception—and I think probably the best example is Girl Guides selling cookies. The regulatory murkiness of whether profit was allowed for organizations, defined by the fact that they are actually not-for-profit, has been a source of great concern and risk for the sector. While as a sector we'll continue to advocate to be known for what we do, which is creating community, rather than what we do not do, which is make profit, the clarification that we can engage in commercial activities that advance our purposes is a welcome development.

Community organizations cannot and do not want to survive on government funding alone. Most organizations strive to diversify their funding base, engaging in commercial and entrepreneurial activity—so really, a key consideration for not-for-profits. The specific permission to engage in commercial activities will open up many

doors for the sector and has the potential to unleash the kind of spirited innovation that the sector is best known for.

The third area is the ultra vires doctrine. We welcome the removal of this doctrine, as we understand that not-for-profits will no longer be limited to the objects set out in the corporation's letters patent. While we will continue to be required to set out our purposes in our articles of incorporation, we will be permitted to have any purpose that is within the province's legislative authority. This flexibility is critical for organizations, as it allows our work to evolve with the needs of our community. Organizations will no longer be boxed into the objects that were originally developed at the time of inception. This flexibility, similar to allowing commercial activity, opens up many opportunities for not-for-profits to be responsive and creative.

There are a number of changes that we would recommend and there are six areas, the first of which is specific details with respect to the public benefit corporation. Currently, the definition for a public benefit corporation is based on the amount and source of funding that an organization receives. Consequently, a not-for-profit organization that receives over \$10,000 in funding will automatically become a PBC, a public benefit corporation, and those that receive no funding or funding less than \$10,000 cannot be considered a PBC. We support the position of the Ontario Nonprofit Network in regard that the issue is a problem of definition. The bill, as currently written, will complicate the status of membership-based not-for-profits and exclude organizations that would like to be considered a public benefit corporation.

We support the ONN's recommendation that a self-selection test be available so that not-for-profits can choose to become PBCs. This provides organizations with the right to opt into this status and also allows membership-based not-for-profits to remain outside of the definition of a public benefit corporation.

The second area in which we would recommend change, or some additions, is preserving assets for the public good. We are concerned that the bill, as it is currently drafted, proposes a three-year asset lock on a public benefit corporation's assets. By definition, a PBC is of benefit to the public and not just its membership. We believe strongly that this bill needs to be amended to ensure a permanent asset lock on a public benefit corporation's assets. The assets of a PBC need to stay within the public domain. Again, we support the ONN's position on this issue: that assets, upon dissolution, should go to registered charities, another PBC or the government, with the proviso that the government will distribute the assets back into the community.

The third area where we would like to see some change is the ability to access community bonds with oversight. Currently, there's no provision in the bill for not-for-profits to use community bonds as a tool for the public to invest in initiatives, such as capital projects, that generate community benefit. We support the ONN's

suggestion that the bill be amended to enable not-for-profits to access community bonds, building on the framework that currently exists through the Ontario Co-operative Corporations Act.

The sector is really at a crossroads. Government support is increasingly limited because of cutbacks. Public support through donations and capital campaigns is also weak in the current climate, yet the services and supports that we provide are needed now more than ever. The sector needs to have creative strategies for raising funds, and community bonds are one such tool.

The fourth area is around directors' liability. This is an issue of great concern for our board of directors because of the liability that they expose themselves to as directors and officers of the organization. While the bill does include provisions for due diligence and good-faith defences, we believe that a stronger statutory limitation of liability is needed.

It is critical for our sector that we attract qualified and responsive directors to provide appropriate governance. The current risk exposure of a director can be a strong deterrent to community volunteers. We recommend that Bill 65 be amended to limit the liability of directors and officers.

The fifth area—these are sort of smaller issues—relates to bylaw changes. Section 17(3) allows directors to make changes to bylaws without ratification by the membership. We believe that bylaw changes should not come into effect until reviewed and approved by the membership. This is a critical check and balance for the membership of an organization.

Finally, the area of financial records: Clause 91(1)(i) calls for the financial records of a corporation to be available "to enable the directors to ascertain the financial position of the corporation ... on a quarterly basis." Our board of directors is concerned about the limitation of records to a quarterly basis. Currently, the corporation is provided with monthly reports. Given the high degree of liability the directors and officers take on in their role, their right to access the financial records should not be limited.

In conclusion, I would like to again express our support for Bill 65. With the changes that we have recommended, we believe the bill will mark a turning point for the legislation of the not-for-profit sector. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Cullingworth. About 20 seconds; Mr. Kormos.

Mr. Peter Kormos: No, thank you, Chair. Thank you, ma'am.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. Ms. Munro.

Mrs. Julia Munro: I would just like to compliment you on how well organized your presentation was.

Ms. Jane Cullingworth: Thank you. I appreciate that. I'm actually very jetlagged. I just got back from England

last night. I appreciate that it was organized despite my jetlag.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro, and thanks to you, Ms. Cullingworth, for your deputation on behalf of Skills for Change.

I understand that our final presenter of the day is not with us yet. Ms. Davidson? No.

We shall recess once more for 10 minutes.

The committee recessed from 1535 to 1539.

ONTARIO HOSPITAL ASSOCIATION

The Chair (Mr. Shafiq Qaadri): We'll reconvene from our recess somewhat earlier because our final presenter of the day is now available: Ms. Davidson, president and chief executive officer of the Ontario Hospital Association. Ms. Davidson, you have 10 minutes in which to make your presentation, and I would invite you to please begin now.

Ms. Janet Davidson: Thank you, Mr. Chairman, and good afternoon, everyone. My name is Janet Davidson. I'm a board member of the Ontario Hospital Association and in my real life I'm president and CEO of Trillium Health Centre.

As has been noted, Bill 65, the Not-for-Profit Corporations Act, 2010, would modernize the legal framework that Ontario's 46,000 not-for-profit corporations operate within and, by doing so, strengthen governance within this very important sector.

Every Ontario hospital is a not-for-profit corporation and virtually all are also registered charities. In fact, Ontario is the only province in Canada where all the hospitals operate within a voluntary governance model. We believe that skills-based voluntary governance makes our hospitals stronger and better able to understand and respond to the unique needs of their communities.

The OHA and Ontario's hospitals are leaders in not-for-profit governance. The OHA, through its Governance Centre of Excellence, offers extensive training for hospital trustees based on annual needs assessments. It has also published multiple versions of the Guide to Good Governance, which has been recognized by experts as the gold standard in not-for-profit governance.

In short, we are committed to strong open governance and to continuous improvement. For that reason, we are concerned that certain provisions currently included in Bill 65, which might make eminent sense for many not-for-profit organizations, could inadvertently undermine the Public Hospitals Act and other purpose-built mechanisms through which hospitals operate and by which they are held accountable by the Ministry of Health and Long-Term Care and the taxpayers of this province.

Our primary concern is that Bill 65 would expand the rights that members of a hospital have in ways that we believe are inappropriate for a charitable organization that already has multiple accountabilities, is publicly funded and has a broad public purpose, specifically providing health care to millions of Ontarians.

As you may know, some Ontario hospitals sell memberships in their organization to members of the communities they serve. The community membership model is in large part a relic of the past when memberships were sold in order to raise money or were bestowed to honour individuals who had rendered long service to hospitals. Some hospitals use community membership sales as an outreach mechanism as well.

But unlike shareholders in a private sector firm, members of a hospital do not have any rights of ownership with respect to the organization or any responsibility to act in the organization's best interests or in the best interests of the public. Only a hospital's directors have fiduciary responsibilities to the organization. Further, hospitals' primary responsibilities are to the Ministry of Health and Long-Term Care as per the provision of the Public Hospitals Act of Ontario. Put another way, while hospital directors are responsible to act in the interests of their hospitals and hospitals are responsible to the ministry, hospital members are not responsible to anyone.

Indeed, there currently is nothing to stop a group of people, well-meaning or otherwise, and united by a specific issue or agenda, from purchasing hospital memberships and, within limits, promoting the agenda without regard for the best interests of the hospital, the community it serves or the stated policies of the government. A situation like that could create confusion at the hospital and within the community regarding the direction of the hospital and undermine public confidence in it.

We believe that certain provisions included in Bill 65 could strengthen the hand of those individuals and groups. For example, while section 21 of Bill 65 provides that directors of an organization "shall manage or supervise the management of the activities and affairs," it also proposes to give new, very broad powers to members. It specifies areas where hospital members would be able to propose changes to the hospital's articles of incorporation for any matter that requires member approval, including adding, changing or removing restrictions on its activities, changing the condition required for being a member of the hospital, changing the purposes of the corporation, and changing the rights of other members of the corporation. The net result is that some members could use this broad proposal-making power to involve themselves in areas that are properly the responsibility of a hospital's directors and managers.

Bill 65 would also allow members to nominate a director if they're supported by 5% of those entitled to vote. This is a new right that does not appear in the Corporations Act and would have implications for hospitals' ability to adopt a skills-based governance model.

Leading governance practices hold that skills-based boards of directors peopled with independent experts are best positioned to provide the kind of oversight over publicly funded organizations that taxpayers would expect. The alternative is a board made up of people who are not selected on the basis of skills but because they represent specific interest groups, professional groups or

political constituencies. For example, individuals like municipal politicians are in a conflict of interest between their representational mandate and their fiduciary responsibility to the hospital as a member of its board.

In the opinion of the OHA, skills-based boards are the most appropriate governance model within publicly funded public purpose organizations like hospitals. As such, we have counselled our members to adopt this model.

I should note that the Ontario Auditor General highlighted this issue in his 2008 annual report and recommended that hospitals continue towards skills-based boards. Recently, the Ministry of Health and Long-Term Care acknowledged the desirability of a skills-based board by amending regulation 965 of the hospitals act to remove voting rights from executive and clinical staff who sit on their organization's board.

The OHA is supportive of these changes. For these reasons, the OHA does not support the proposal in Bill 65 that would move hospitals away from skills-based governance.

Finally, Bill 65 would allow members to request an investigation into or bring a derivative action against the hospital and its board. The authority to appoint hospital investigators or supervisors was given deliberately to the Ministry of Health and Long-Term Care through the Public Hospitals Act. We do not believe that it should be duplicated at the local level through legislation that was not written with the unique needs of the hospitals sector in mind or given to individuals who do not have a fiduciary responsibility to the hospital or a duty to act in the public interest.

Ontario's hospitals are among the most efficient, transparent and accountable anywhere, in part because they operate for Ontario's 12 million citizens within legal, regulatory, funding and policy frameworks that are quite clear. As we work through this era of sometimes difficult change made necessary by evolving models of care and tight budgets, maintaining these strong, clear frameworks and acting in accordance with broad public interest will be more important than ever.

We believe that this could be accomplished in a variety of ways; one would be to amend Bill 65 to recognize the primacy of the existing purpose-built legislative and regulatory frameworks that hospitals operate under currently.

The OHA will be submitting detailed written proposals to this committee in the days ahead, and I would encourage all members of this committee to consider them.

I'll close the way I began: Ontario's hospitals recognize that we have special duties to operate openly and transparently, and we believe that voluntary governance is a unique strength of our hospital system. Our goal is to ensure that voluntary governance of hospitals remains as strong and effective as possible.

I'd just like to thank you for this opportunity to present to you today. Thank you, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Davidson. To the Liberal side, 20 seconds. Mr. Johnson.

Mr. Rick Johnson: I just want to thank you for your presentation. It was very informative.

The Chair (Mr. Shafiq Qaadri): Ms. Munro.

Mrs. Julia Munro: Thank you very much for your presentation. I would encourage you to send those amendments that you're contemplating with all possible haste. We're on a very short timeline.

Ms. Janet Davidson: We will. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Thank you very much. I appreciate your contribution.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Davidson, for your deputation to us on behalf of the Ontario Hospital Association.

I'll just alert fellow committee members that we'll be adjourned till Tuesday, August 31, for clause-by-clause at 10 a.m. The administrative deadline for filing amendments is Monday, August 30, at 12 noon.

If there is no further business—yes, Ms. Munro?

Mrs. Julia Munro: There was some conversation about 9 a.m.

Mr. Peter Kormos: At 9, 9:30, 10, whatever people want.

Mr. Rick Johnson: I'm in anyway, so 9 o'clock—I don't know where everybody else is.

Mr. Peter Kormos: I should indicate my goal is to get the clause-by-clause done on Tuesday.

Mrs. Julia Munro: Right. Mine is, too.

Mr. Peter Kormos: Yes. And I'm here at 9 o'clock—

The Chair (Mr. Shafiq Qaadri): Fine, 9 a.m., Tuesday, August 31. Thank you.

Committee adjourned.

The committee adjourned at 1550.

Continued from back cover

Foster Care Council of Canada	SP-219
Mr. John Dunn	
Learning Enrichment Foundation; Canadian CED Network.....	SP-220
Mr. Peter Frampton	
Social Planning Council of Kitchener-Waterloo; Community Information Centre of Waterloo Region	SP-222
Ms. Trudy Beaulne	
Mr. John McNamara	SP-223
Capacity Waterloo Region	SP-223
Mr. Steve Farlow	
Skills for Change.....	SP-225
Ms. Jane Cullingworth	
Ontario Hospital Association	SP-227
Ms. Janet Davidson	

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Mr. Rick Johnson (Haliburton-Kawartha Lakes-Brock L)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry-Prescott-Russell L)

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener-Waterloo PC)

Substitutions / Membres remplaçants

Mr. Ted Arnott (Wellington-Halton Hills PC)

Mr. Mike Colle (Eglinton-Lawrence L)

Mr. Bob Delaney (Mississauga-Streetsville L)

Mr. Peter Kormos (Welland ND)

Mrs. Julia Munro (York-Simcoe PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Avrum Fenson, research officer,
Legislative Research Service

CONTENTS

Monday 23 August 2010

Subcommittee report	SP-191
Not-for-Profit Corporations Act, 2010, Bill 65, Ms. Aggelonitis / Loi de 2010 sur les organisations sans but lucratif, projet de loi 65, Mme Aggelonitis.....	SP-191
Social Planning Council of Sudbury	SP-191
Ms. Janet Gasparini	
Ontario Nonprofit Network.....	SP-193
Ms. Lynn Eakin	
Canadian Alternative Investment Co-operative	SP-194
Ms. Beth Coates	
Pivotal Services of London	SP-196
Ms. Katherine Charles	
Sikh Social and Educational Society of Ontario	SP-197
Mr. Gurdev Singh Sangha	
Social Planning Council of Cambridge and North Dumfries; Cambridge Community Innovation Centre.....	SP-198
Ms. Laura VanderGriendt	
Ms. Pat Ranney	
Sikhs of Canada	SP-200
Mr. Manohar Singh	
GurSikh Sangat Hamilton	SP-201
Mr. Manjit Singh Sahota	
Ontario Funeral Service Association.....	SP-202
Mr. Brian Parent	
Mr. Fred Holmes	SP-203
Ontario Association of Architects.....	SP-204
Ms. Kristi Doyle	
Law Society of Upper Canada	SP-206
Mr. Malcolm Heins	
Mr. Gilbert Gagnon.....	SP-207
Social Innovation Generation.....	SP-209
Ms. Allyson Hewitt	
College of Veterinarians of Ontario	SP-210
Ms. Susan Carlyle	
Social Planning Toronto.....	SP-212
Mr. John Campey	
United Way Toronto	SP-213
Mr. Peter Alexander	
Sport4Ontario	SP-215
Ms. Margaret Emin	
Institute of Chartered Accountants of Ontario	SP-217
Mr. Tom Warner	
Ms. Elizabeth Cowie	
St. Christopher House	SP-218
Ms. Maureen Fair	

Continued on inside back cover

A20N
C 14
S78



SP-10

SP-10

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Tuesday 31 August 2010

Journal des débats (Hansard)

Mardi 31 août 2010

Standing Committee on Social Policy

**Not-for-Profit
Corporations Act, 2010**

Comité permanent de la politique sociale

**Loi de 2010 sur les organisations
sans but lucratif**

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 31 August 2010

Mardi 31 août 2010

*The committee met at 0906 in room 151.*NOT-FOR-PROFIT
CORPORATIONS ACT, 2010LOI DE 2010 SUR LES ORGANISATIONS
SANS BUT LUCRATIF

Consideration of Bill 65, An Act to revise the law in respect of not-for-profit corporations / Projet de loi 65, Loi modifiant des lois en ce qui concerne les organisations sans but lucratif.

The Chair (Mr. Shafiq Qaadri): Good morning, and welcome to clause-by-clause on Bill 65, An Act to revise the law in respect of not-for-profit corporations.

Mr. Peter Kormos: At 9:05 a.m.

The Chair (Mr. Shafiq Qaadri): We have a number of resolutions and motions, and if there is any general commentary of any kind, I'd entertain that, except for Mr. Kormos—but go ahead. Are there any general comments? Seeing none, we'll proceed—

Mr. Peter Kormos: Chair, yes, there are. Mr. Fenson isn't here this morning, but I want to thank him for the material he prepared for us; it was useful. I appreciate the people who participated. It was more interesting, I think, than any of us suspected that it would be at the end of the day.

I do indicate that New Democrats will be supporting this legislation. We're not entirely happy that all of the issues haven't been addressed, but we understand that some of the issues that were raised can't be addressed within the context of Bill 65, and that's fair enough. The community bond issue, which is an issue that was raised, to be fair, is not one that is likely to be addressed by Bill 65, within the context of this legislation. I hope the government pays attention to that, however.

We're looking forward to seeing this bill progress through committee during today's process.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos, for your now-substantive remarks. If there are any further remarks, I'd invite them. From the government side?

Mr. Khalil Ramal: [Inaudible] patiently to listen to your voice—

Mr. Peter Kormos: From your own, Chair. From your own.

Mr. Khalil Ramal: —and to go through this procedure.

The Chair (Mr. Shafiq Qaadri): Thank you.

From the Conservative side? If not, I'll invite the presentation of government motion 1, I presume. Mr. Johnson.

Mr. Rick Johnson: I move that the definition of "charitable corporation" in section 1 of the bill be struck out and the following substituted:

"'charitable corporation' means a corporation incorporated for the relief of poverty, the advancement of education, the advancement of religion or other charitable purpose, and 'non-charitable corporation' means a corporation that is not a charitable corporation; ('organisation caritative', 'organisation non caritative')."

My French is lacking.

The Chair (Mr. Shafiq Qaadri): Pas de problème, Monsieur Johnson. Are there any comments?

Mr. Peter Kormos: Chair, please, some brief explanation.

Mr. Rick Johnson: This is a technical amendment. This definition has been narrowed to reflect the common law definition of charity and provides greater legal certainty as to whether or not corporations are charitable.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Munro?

Mrs. Julia Munro: I understand the explanation. I'm just a little bit concerned about the fact that it identifies very specific purposes. Perhaps in the future this might become difficult for people to be looking at as a definition. I just wondered if the government had any comments on that.

Mr. Rick Johnson: I would ask staff to come forward and provide a further definition.

The Chair (Mr. Shafiq Qaadri): Welcome. Please be seated. You know the drill. Please identify yourself and proceed.

Mr. Peter Kormos: We're sorry we were late starting. We appreciate you waiting for us.

Mr. Allen Doppelt: My name is Allen Doppelt, and I am senior counsel with the legal services branch of the Ministry of Consumer Services.

To answer the specific question, the revised definition has a basket clause. In addition to the three main categories, which relate to relief of poverty, education and religion, it contains the words "or other charitable purpose." Over the years, the courts have expanded the category of types of activities that are considered charitable. For example, many years ago, environmental

activities would not have been considered charitable, and they are now. So it's flexible enough to accommodate future judicial decisions as to what constitutes a charitable activity or not.

Mrs. Julia Munro: Okay, thank you. I just felt it was important that people appreciate the breadth of what the "other charitable purpose" might also include.

The Chair (Mr. Shafiq Qaadri): If there are no further considerations, we'll proceed to the vote. Those in favour of government motion 1? Those opposed? Motion 1 carried.

Government motion 2: Mr. Johnson.

Mr. Rick Johnson: I move that section 1 of the bill be amended by adding the following subsection:

"Deeming re public benefit corporation

"(2) Despite the definition of 'public benefit corporation' in subsection (1), if a non-charitable corporation that is not a public benefit corporation at the beginning of a financial year receives donations, gifts, grants or similar financial assistance as described in that definition in that financial year,

"(a) the non-charitable corporation is deemed to not be a public benefit corporation in that financial year; and

"(b) the non-charitable corporation is deemed to be a public benefit corporation in the next financial year, as of the date of the first annual meeting of members in that next financial year."

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Kormos.

Mr. Peter Kormos: This is wacky. It has these corporations jumping in and out of the structure of Bill 65, depending upon whether or not they receive that government funding in a particular fiscal year. It just seems so strange, because one law will apply one year; another law will apply another year. Can you help with that, please?

Mr. Rick Johnson: It clarifies that a non-charitable corporation becomes a public benefit corporation only at the first annual members' meeting after the financial year in which the corporation exceeds the minimum threshold for financial contributions from non-members. The corporation will continue to be a public benefit corporation for each financial year in which it exceeds the minimum threshold. This will enable the members to approve the necessary changes to the articles and bylaws and pass any required resolutions in a timely way to meet the bill's requirements for public benefit corporations.

Mr. Peter Kormos: Mr. Ramal understands that.

The Chair (Mr. Shafiq Qaadri): Are you posing a formal question, Mr. Kormos, to Mr. Ramal?

Mr. Peter Kormos: No, thank you, Chair.

The Chair (Mr. Shafiq Qaadri): All right; fair enough. If there are no further considerations, we'll proceed to the vote. Those in favour of government motion 2? Those opposed? Motion 2 carried.

Shall section 1, as amended, carry? Carried.

We've received no motions, so far as I understand, with reference to section 2, so I'll proceed to the vote, unless there are comments. Shall section 2 carry? Carried.

Section 3, government motion 3: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 3(4) of the bill be struck out and the following substituted:

"Control"—

Mr. Peter Kormos: Point of order, Mr. Chair. Section 1, as amended: We dealt with that?

The Chair (Mr. Shafiq Qaadri): Yes, and we've actually dealt with section 2 as well. We're now on section 3.

Mr. Peter Kormos: Yes, quite right.

The Chair (Mr. Shafiq Qaadri): Government motion 3: Proceed.

Mr. Rick Johnson: "(4) For the purposes of this act, a body corporate is deemed to be controlled by another person or by two or more bodies corporate if, but only if,

"(a) shares or memberships of the first-mentioned body corporate to which are attached more than 50% of the votes that may be cast to elect directors of that body corporate are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

"(b) the votes attached to those shares or memberships are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate."

The Chair (Mr. Shafiq Qaadri): Comments, questions, queries? Seeing none, we'll proceed to the vote. Those in favour of government motion 3? Those opposed? Government motion 3 carried.

Shall section 3, as amended, carry? Carried.

With the indulgence of committee, we have received no motions to date for sections 4 to 7, inclusive. So, with your permission, I will entertain block consideration of the sections. Shall sections 4 to 7, inclusive, carry? Carried.

I will now proceed to section 8, PC motion 4: Ms. Munro.

Mrs. Julia Munro: I move that subsection 8(2) of the bill be amended by striking out "Subject to any restrictions in the regulations" and substituting "Subject to subsection (3.1) and any restrictions in the regulations."

This has to do with the complexity that was revealed to us in the proceedings last week with regard to making clear when a not-for-profit corporation is involved in profit-making ventures. Sometimes the line is a bit fuzzy. This looks at this particular issue in a way to make it very clear to everybody.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Johnson.

Mr. Rick Johnson: We won't be supporting this amendment. The proposed amendment makes the purpose of the corporation subject to the restriction that the main purpose of a corporation must be non-commercial, as set out in the proposed amendment to subsection 8(3.1). This cross-reference to propose subsection (3.1) is unnecessary because current subsection 8(3) already includes this restriction.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour

of PC motion 4? Those opposed? I declare PC motion 4 to have been defeated.

PC motion 5: Ms. Munro.

Mrs. Julia Munro: I move that subsection 8(3) of the bill be struck out and the following substituted:

“Same

“(3) If any of the purposes of a corporation are of a commercial nature, the articles must state the following:

“1. The commercial purpose of the corporation must be limited to those business activities that are incidental and ancillary to its objects.

“2. The commercial purpose of the corporation must be subject to a revenue cap of not greater than \$500,000 per year.

“3. The commercial purpose is intended only to advance or support one or more of the non-profit purposes of the corporation.”

Obviously, this amendment falls within the general scope of the concerns raised last week with regard to the manner in which not-for-profit corporations can proceed. Clearly, what this attempts to do is make sure that there is a level playing field.

The Chair (Mr. Shafiq Qaadri): Further comments, queries? Mr. Johnson.

Mr. Rick Johnson: Just that we won't be supporting this amendment. This proposed amendment would add two additional restrictions to the articles concerning any commercial purposes. The first condition restates the existing restriction in current subsection 8(3) using different language and is therefore unnecessary. The second condition would impose a severe limitation on the ability of non-profit corporations to engage in commercial activity that is necessary to support or achieve their non-for-profit purposes.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Munro.

Mrs. Julia Munro: I would just want to, for the record, indicate that while the government is correct in terms of setting a cap, the intention here is to be able to create a level playing field. Not-for-profit corporations have a particular set of rules that obviously the private sector or the for-profits—they have to contend with fees and things like that. This is an attempt to make sure that there is a level playing field.

The Chair (Mr. Shafiq Qaadri): If there is no further consideration, we'll proceed to consider PC motion 5. Those in favour of PC motion 5? Those opposed? I declare PC motion 5 to have been defeated.

PC motion 6: Ms. Munro.

Mrs. Julia Munro: I move that section 8 of the bill be amended by adding the following subsection:

“Dominant purpose

“(3.1) The dominant purpose of a corporation must be of a non-commercial nature.”

Again, this falls within that whole concern about, first of all, making very clear what is the purpose of each kind of corporation, clarifying that it must be of a non-commercial nature; and secondly, that the reason for that is simply to make sure that there is a level playing field.

0920

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Johnson.

Mr. Rick Johnson: This amendment will require that the corporation's dominant purpose be one that is non-commercial in nature. This restates the existing restriction in current subsection 8(3) using different language and is therefore unnecessary.

The Chair (Mr. Shafiq Qaadri): Thank you. No further comments? We'll proceed, then, to the vote. Those in favour of PC motion 6? Those opposed? I declare PC motion 6 to have been defeated.

Shall this section, section 8, carry? Carried.

Again, block consideration, if—

Mr. Peter Kormos: One moment, Chair.

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Kormos.

Mr. Peter Kormos: Up to and including section 10, please, because I want to speak to section 11.

The Chair (Mr. Shafiq Qaadri): Fair enough; accepted. Shall section 9 carry? Carried.

Section 10: If there are comments on section 10—

Mr. Peter Kormos: I said up to and including section 10.

The Chair (Mr. Shafiq Qaadri): Ah, fair enough. Shall section 10 carry? Carried.

Section 11: Mr. Kormos.

Mr. Peter Kormos: I spoke to this on second reading, and it's a very peculiar restriction. What it does is it says that the corporation's name shall be in English only or French only. It seems to me that we're more mature than that. It does, further on, say that the name shall be in Roman alphabet letters; I perhaps understand that. But what this says is that—again, I talked about the Croatian home in Welland last week, that the Croatian home cannot call itself Hrvatski dom, which is Croatian for “Croatian home.” The Italian home, similarly, can't call itself, quite frankly, Casa Dante—the “Casa Dante” would probably be illegal in terms of the restriction here. “Casa Dante” is not English, nor is it French; it's “Home Dante.”

I just find it troubling that we couldn't be more mature as a province and recognize that we have this incredible ethnic and cultural mix. I understand the restriction to Roman lettering, because for some of us, it would be very difficult to read any number of other letterings, be it Cyrillic or Asian or what have you. But if we have Roman lettering, why can't we allow people to incorporate their corporate body in a language that is endemic to that particular community?

I raise this, which is why I'm going to vote against section 11. I understand the English and French, of course, but why can't we allow the Croatian home to call itself Hrvatski dom—in Roman letters, because Croatians use Roman letters, as compared to Ukrainians, who use Cyrillic. But even the Ukrainian home, or the Ukrainian hall in my community, would be more than prepared to use Roman letters, rather than Cyrillic—or, for that matter, any number of temples and mosques and centres

and corporate bodies of any number of ethnic communities.

I don't know whether the acting PA wants to comment on that or not. I would love to see him commit the government to a model of inclusivity, rather than exclusivity.

Mr. Rick Johnson: I would pass that to ministry staff.

Mr. Allen Doppelt: Yes, if I may respond to that question, it's addressed in subsection (6) of section 11. It says, "Subject to this act and the regulations, a corporation may use its name in the form and language permitted by its articles." In other words, although in the first part of the articles of incorporation you set out the name in English and in French, you can have an exact translation into any language in the special provisions, and you can use that form of language. In fact, that reflects the current provision in the Corporations Act.

Mr. Peter Kormos: Chair, quite frankly, that's the "carrying on business as." It creates a duality, with respect. I understand that subsection. But the dominant section is the section that says English or French, and then it says, "Oh, but we'll condescend and let you call yourself by your ethnic name." But your proper name—in other words, it's Harry Brown carrying on business as Brown Jewellers. Is that unfair, or am I wrong? Tell me.

Mr. Allen Doppelt: In fact, for all legal purposes, you can use the name in the other language in terms of contracts and advertising for all purposes. So it doesn't really impose any restriction in terms of the practical activity of the corporation.

Mr. Peter Kormos: But then why do we have subsection (2): "a name that is ... English only ... French only"? Please help me.

Mr. Allen Doppelt: I think that reflects the existing practice, but what I'm saying is, in practice, the use of the corporate name in any other language can be done without any restriction whatsoever. It would be seamless to anyone dealing with the corporation.

Mr. Peter Kormos: "Subject to this act"—and the preceding subsection, subsection (2), are very explicit about what language. But okay, I hear you. I respect your commentary on that. I'm voting against it as I think we should be explicit in terms of deleting the "English or French only." I can live with using Roman lettering, because that's a language that's a communication issue. But I'm going to vote against it because, if what you say is correct, you wouldn't need subsection (2), which says "English only" or "French only."

Fair enough. Let's not get engaged in a protracted debate. This will give me an hour for third reading. Lord knows, it will be tough enough to get an hour out of this, but I'll manage.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of section 11?

Mr. Peter Kormos: Recorded vote, please.

Ayes

Johnson, Leal, McNeely, Naqvi, Ramal.

Nays

Kormos.

The Chair (Mr. Shafiq Qaadri): Section 11 has been carried.

Sections 12 to 15: with the indulgence of the committee, block consideration. Shall they carry? Carried.

We will now proceed to section 16, government motion 7: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 16(2) of the bill be amended by striking out "in a manner".

This is a technical amendment.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Peter Kormos: One moment, Chair, please.

What happened here, acting PA?

Mr. Rick Johnson: Removal of the deleted word clarifies the intent of this provision. The words "in a manner" have been deleted because they appear to unduly narrow the scope of this provision. A corporation will not be permitted to carry on its activities or exercise any power contrary to its articles.

Mr. Peter Kormos: That heartfelt comment by Mr. Johnson has persuaded me that the amendment is—

Interjections.

Mr. Rick Johnson: I'm glad I'm sweating you today.

The Chair (Mr. Shafiq Qaadri): I could sense the emotional commitment as well, so thank you, Mr. Kormos, for your endorsement.

We'll now move to consider government motion 7. Those in favour? Those opposed? Government motion 7 carried.

Shall section 16, as amended, carry? Carried.

Section 17, government motion 8: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 17(1) of the bill be amended by striking out "except in respect of matters referred to in subsection 102(1)" at the end and substituting "except in respect of a matter referred to in clause 102(1)(g), (j) or (l)".

A technical amendment, once again, to narrow the application of the rule only to appropriate clauses of subsection 102(1). The bylaw-making powers in this provision have been revised to exclude only those clauses of subsection 102(1) that can be the subject matter of a bylaw. Section 102 deals with the amendments to articles.

The Chair (Mr. Shafiq Qaadri): Further comments? Any comments? We'll proceed, then, to the vote. Those in favour of government motion 8? Those opposed? Government motion 8 carries.

Shall section 17, as amended, carry? Carried.

Once again, with the indulgence of committee, block consideration, if allowed, of sections 18 to 22, inclusive: Those in favour? Those opposed? Sections 18 to 22 carry.

I now proceed to section 23, government motion 9: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 23(3) of the bill be struck out.

This was requested by the Ontario Nonprofit Network. The requirement that at least two thirds of the directors must be members is being deleted. In light of the enhanced accountability provisions for directors, it does not appear necessary that a cap be placed on the number of directors who are not members.

Mr. Peter Kormos: This seems to be another major and significant McGuinty flip-flop. We'll support it.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the vote. Those in favour of government motion 9? Those opposed? Government motion 9 carries.

Government motion 10: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 23(4) of the bill be struck out and the following substituted:

"Restriction re public benefit corporation

"(4) Not more than one third of the directors of a public benefit corporation may be employees of the corporation or of any of its affiliates."

0930

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 10? Those opposed? Motion 10 carries.

Shall section 23, as amended, carry? Carried.

Section 24, government motion 11: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 24(1) of the bill be amended by striking out "the third annual meeting of the members" and substituting "the fourth annual meeting of the members."

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Munro.

Mrs. Julia Munro: I just wondered if we could have an explanation for the change.

Mr. Rick Johnson: Yes, the maximum term for directors is being extended from three years to four years. Consequently, the election of directors must occur at least once every four years. It will provide more flexibility for not-for-profit corporations to determine the appropriate term of office for its board of directors.

Mrs. Julia Munro: So does this mean that it could be in their bylaws—that it could be any different from every four years?

Mr. Rick Johnson: I'm going to pass this over.

Mr. Allen Doppelt: The term of office for directors would have to be set out in the bylaws in whole years: another one every year or every second or every third year, and if this amendment is approved, it would be every four years. In practice, if directors are elected for more than one year, it's usually because there's a rotating board—for example, if you had nine directors elected over a three-year term, and each would have a three-year term or a four-year term.

Mrs. Julia Munro: And, in this case, a four-year term.

Mr. Allen Doppelt: Yes. It might happen if you had a large board of sixteen, and four were elected each year for a four-year term.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to consider government motion 11. Those in favour? Those opposed? Motion 11 carries.

Government motion 12: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 24(7) of the bill be amended by striking out "if the articles of the corporation so provide".

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote. Those in favour of government motion 12? Opposed? Motion 12 carries.

Government motion 13: Mr. Johnson.

Mr. Rick Johnson: I move that section 24 of the bill be amended by adding the following subsections:

"Later consent

"(9) Despite subsection (8), if an individual elected or appointed consents in writing after the period mentioned in that subsection, the election or appointment is valid.

"Exception

"(10) Subsection (8) does not apply to a director who is re-elected or reappointed where there is no break in his or her term of office."

The Chair (Mr. Shafiq Qaadri): Comments? Ms. Munro.

Mrs. Julia Munro: Yes, I just wanted to ask a question. In this proposed amendment, it says, "consents in writing after the period." In the original, it has "within 10 days." I just wondered, why the change, and how long is "after the period"?

Mr. Rick Johnson: I'll take a stab. These two subsections are substantially the same as subsections 119(10) and (11) of the Ontario Business Corporations Act. New subsection 24(9) is a saving provision that preserves the validity of a director's election or appointment, even if the director's consent is signed more than 10 days after the election or the appointment. Does that answer it?

Mrs. Julia Munro: Well, just that it just says, "after the period." I'm just surprised that, where there had been originally a specific time frame set out, this one appears not to.

Mr. Rick Johnson: I'll pass to staff.

Mr. Allen Doppelt: I guess the reason the saving provision is in there is because, technically, without this provision being added, if the written consent was given, say, 15 days after instead of within the 10 days, then it may well be that the person's election as director would be invalid because they didn't give the consent within that short time period. The whole purpose of the consent provision is so that persons shouldn't be shown as directors, with all the associate liability, unless they have actually consented to do so.

Mrs. Julia Munro: My issue is not with that so much as the fact that it seems to be open-ended, in terms of it just saying "after the period." It doesn't give any indication. So 15 days, 25 days—it doesn't matter?

Mr. Allen Doppelt: No, it doesn't. As long as they've signed the consent, that protects them, because that shows that they've agreed formally to assume the duties and liabilities of a director.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments on government motion 13? If not, those in favour of government motion 13? Those opposed? Motion 13 carried.

Shall section 24, as amended, carry? Carried.

We'll proceed directly, unless there are comments: Shall section 25 carry? Carried.

Section 26, government motion 14: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 26(1) of the bill be struck out and the following substituted:

"Removal of directors

"(1) The members of a corporation may, by ordinary resolution at a special meeting, remove from office any director or directors, except persons who are directors by virtue of their office."

The Chair (Mr. Shafiq Qaadri): Comments? If there are no comments, we'll proceed to the vote. Those in favour of government motion 14? Those opposed? Carried.

Shall section 26, as amended, carry? Carried.

We have block consideration of sections 27 to 35, inclusive: Shall those sections so named carry? Carried.

Section 36, government motion 15: Mr. Johnson.

Mr. Rick Johnson: I move that paragraph 2 of subsection 36(2) of the bill be struck out and the following substituted:

"2. To fill a vacancy among the directors or in the position of auditor or of a person appointed to conduct a review engagement of the corporation."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

We'll proceed to the vote. Those in favour of government motion 15? Opposed? Motion 15 carried.

Shall section 36, as amended, carry? Carried.

Block consideration of sections 37 to 40: Those in favour? Carried.

Section 41, government motion 16: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 41(7) of the bill be struck out and the following substituted:

"Members' approval

"(7) If all of the directors are required to make disclosure under subsection (1), the contract or transaction may be approved only by the members unless the contract or transaction is one described in clause (5)(a), (b) or (c)."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 16? Those opposed? Motion 16 carried.

Shall section 41, as amended, carry? Carried.

Block consideration, sections 42 to 51, inclusive: Shall they carry? Carried.

Section 52, government motion 17: Mr. Johnson.

Mr. Rick Johnson: I move that clause 52(1)(a) of the bill be amended by striking out "12 months" and substituting "18 months".

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Kormos.

Mr. Peter Kormos: Some explanation, please.

Mr. Rick Johnson: This would provide greater consistency with the Ontario Business Corporations Act and the Canada Not-for-profit Corporations Act. The time for calling the first annual meeting of members will be extended from 12 to 18 months. In practical terms, if a corporation incorporates on January 1, with a December 31 financial year-end, it would be impossible for it to comply with the current 12-month rule for holding the first annual meeting.

Mr. Peter Kormos: Thank you, Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos.

Those in favour of government motion 17? Those opposed? Motion 17 carried.

Government motion 18: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 52(2) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Peter Kormos: Even more interesting.

Mr. Rick Johnson: The removal of this section results in greater consistency with the Ontario Business Corporations Act, which does not have an equivalent provision. A court order to extend the time for holding an annual meeting of members appears unnecessary and will create additional expense for the corporation.

Mr. Peter Kormos: The interesting point about that is that this was supposed to be a reform; we were moving away from the traditional, antiquarian model. Many people out there saw these as enlightened reforms, and also the use—mind you, it has been criticized from time to time by some of the presenters, but the access to the courts for review of various activities.

So I hear you, and of course I believe you, because you're an honourable person, notwithstanding your political bent, but I just find it strange that you have an opportunity to use the courts to grant some licence, the judicial discretion, and you're taking it away to maintain consistency with the Business Corporations Act. This was all about creating a totally new model. You understand why that leaves me a little bewildered. Perhaps a normal state for myself, but it leaves me a little bewildered.

Let's hear from the policy people, if we may, Chair.

Mr. Allen Doppelt: I think the reason that we took this out is because most non-profit corporations couldn't afford the cost of such a court application, but there may be extraordinary circumstances in which it may be necessary to extend the time for holding the annual meeting. It would be done only on an exceptional basis, and to require a court order would mean, effectively, that they wouldn't be able to extend the time for holding the annual meeting due to the cost, even though there may be extenuating circumstances that require such a delay.

0940

Mr. Peter Kormos: Okay. Fair enough.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Kormos. Those in favour of government motion 18? Those opposed? Motion 18 carries.

Shall section 52, as amended, carry? Carried.

Block consideration of sections 53 and 54: Carry? Carried.

Section 55, government motion 19: Mr. Johnson.

Mr. Rick Johnson: I move that clause 55(1)(c) of the bill be struck out and the following substituted:

“(c) the auditor of the corporation or the person appointed to conduct a review engagement of the corporation.”

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 19? Those opposed? Motion 19 carries.

Government motion 20, Mr. Johnson.

Mr. Rick Johnson: I move that subsection 55(7) of the bill be struck out and the following substituted:

“Special business

“(7) All business transacted at a special meeting of the members and all business transacted at an annual meeting of the members is special business except for the following:

“1. Consideration of the financial statements.

“2. Consideration of the audit or review engagement report, if any.

“3. An extraordinary resolution to have a review engagement instead of an audit or to not have an audit or a review engagement.

“4. Election of directors.

“5. Reappointment of the incumbent auditor or person appointed to conduct a review engagement.”

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Those in favour of government motion 20? Opposed? Motion 20 carries.

Shall section 55, as amended, carry? Carried.

Block consideration of sections 56 and 57: carry? Carried.

Section 58, government motion 21: Mr. Johnson.

Mr. Rick Johnson: I move that subsections 58(3) and (4) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Munro and then Mr. Kormos.

Mrs. Julia Munro: I just wondered if we could have an explanation of why.

Mr. Rick Johnson: It was requested by the Ontario not-for-profit network, an amendment to provide greater flexibility to allow for more modern means of voting rather than requiring use of proxies authorizing another person in attendance to vote on a member's behalf.

In the interests of greater transparency, the basic rules for voting by telephonic or electronic means, i.e., the Internet, will be set out in new section 66.1 instead of the regulations. Accordingly, these two subsections are no longer needed because they deal with the same subject as section 66.1

The Chair (Mr. Shafiq Qaadri): Thank you. Any comments, Ms. Munro? Mr. Kormos.

Mr. Peter Kormos: A very capable explanation.

The Chair (Mr. Shafiq Qaadri): Thank you for your endorsement as always, Mr. Kormos.

Are there any further comments? If not, we'll proceed to the vote. Those in favour of government motion 21? Those opposed? Motion 21 carries.

Shall section 58, as amended, carry? Carried.

Block consideration of sections 69 to 66, inclusive: Shall they carry? Carried.

Section 66.1, government motion 22.

Mr. Rick Johnson: I move that part VI of the bill be amended by adding the following section:

“Voting by mail or by telephonic or electronic means

“66.1(1) A corporation may provide in its bylaws for voting by mail or by telephonic or electronic means, in addition to or instead of voting by proxy.

“Same

“(2) Voting by mail or by telephonic or electronic means may be used only if,

“(a) the votes may be verified as having been made by members entitled to vote; and

“(b) the corporation is not able to identify how each member voted.”

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Government motion 22: Shall it carry? Carried.

Section 67: Having received no motions to date, shall section 67 carry? Carried.

Section 68, government motion 23: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 68(1) of the bill be struck out and the following substituted:

“Qualifications

“(1) In order to be an auditor of a corporation or to conduct a review engagement of a corporation, a person must be permitted to conduct an audit or review engagement of the corporation under the Public Accounting Act, 2004 and be independent of the corporation, any of its affiliates, and the directors and officers of the corporation and its affiliates.”

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Seeing none, I'll now proceed to the vote. Those in favour of government motion 23? Those opposed? Motion 23 carries.

Government motion 24: Mr. Johnson.

Mr. Rick Johnson: I move that subclause 68(2)(b)(iii) of the bill be amended by striking out “within two years before the person's proposed appointment as auditor of the corporation” at the end and substituting “within two years before the person is proposed to be appointed as auditor of the corporation or to conduct a review engagement of the corporation”.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Kormos?

Mr. Peter Kormos: An explanation, please.

Mr. Rick Johnson: It's an amendment to expand provisions to apply to persons conducting review engagements in addition to auditors. This subclause, which defines classes of persons who are deemed not to be

independent of the corporation, has been expanded to cover persons who are proposed to conduct a review engagement. They will be disqualified from doing so if they have had a role in the insolvency proceedings related to the corporation within the previous two years.

Mr. Peter Kormos: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Leal?

Mr. Jeff Leal: Just a quick question for Allen: What's the difference between an audit and a review engagement? My background is in the area, but "audit" has always been the traditional term. I'm not familiar with "review engagement." How do they differ?

Mr. Allen Doppelt: A review engagement is a review of the financial statements, but it's a less rigorous and comprehensive type of review. The public accountant who does that and carries out the review engagement does not provide the clear opinion that you find in an audit. It does give the members of the corporation some assurance that the financial statements have been properly prepared, but not to the high level of an audit. We've been advised by the institute of chartered accountants that a review engagement costs approximately 50% to 60% of the cost of an audit.

Mr. Jeff Leal: So when the review engagement is completed, there would be certain notes on the statement, and those notes would—

Mr. Allen Doppelt: Yes, there would be a report. Just as when an auditor completes an audit there's an auditor's report that's provided to the members at the annual meeting, together with the financial statements, the person conducting the review engagement would prepare a report for consideration by the members and the board.

Mr. Jeff Leal: In terms of disclosure, the notes would say, if the review engagement was conducted, that we looked at the following things—

Mr. Allen Doppelt: Yes, definitely.

Mr. Jeff Leal: —but not in the sense of the detail that the formal audit would look at.

Mr. Allen Doppelt: Right, and you wouldn't have the opinion that you have in the formal audit report.

Mr. Jeff Leal: I'm just thinking of the people who sit on the board of directors, with their fiduciary responsibility, so they know exactly what they're getting when the term "review engagement" is used.

Mr. Allen Doppelt: Right. And there cannot be a review engagement under this bill, if it's passed, unless you fit within the scope of section 75 of the bill—in other words, within the dollar limits—and it has been approved by at least 80% of the members present and voting at the meeting. There are all these qualifications. It's an exception to having the full audit.

Mr. Jeff Leal: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal?

Mr. Khalil Ramal: I want the qualifications of the reviewers, like designations. I know with auditors there are certain designations. For the person who conducts the review, what are the qualifications they have to have?

Mr. Allen Doppelt: Well, in the normal circumstance, it would be a public accountant—the same people who conduct audits.

Mr. Khalil Ramal: Okay.

Mr. Allen Doppelt: Because of one of the other amendments, there is a regulation under the Public Accounting Act, 2004, that allows other accountants to carry out an audit review engagement if they receive no compensation for doing so. But in the normal course, it would usually be a fully qualified auditor that would also conduct the review engagement.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote unless there are comments. Those in favour of government motion 24? Those opposed? Motion 24 carries.

Government motion 25: Mr. Johnson.

Mr. Rick Johnson: I move that subsections 68(4) and (5) of the bill be struck out and the following substituted:

"Duty to resign

"(4) An auditor or person appointed to conduct a review engagement who is disqualified under this section shall resign immediately after becoming aware of the disqualification.

"Disqualification order

"(5) On the application of an interested person, the court may make an order declaring a person to be disqualified under this section and the position of auditor or of a person appointed to conduct a review engagement to be vacant."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Peter Kormos: Again, you've got a subsequent motion dealing with 69. We're not sure how relevant that is. What's your explanation for deleting these?

Mr. Rick Johnson: The amendment to 68(4) would expand provisions to apply to persons conducting review engagements, in addition to auditors. The subsection would be expanded to cover persons conducting a review engagement. They must resign immediately if they've been disqualified under this section.

The amendment to 68(5) would expand provisions to apply to persons conducting review engagements, in addition to auditors. The court's power to make a disqualification order is expanded to cover the position of a person who is appointed to conduct a review engagement.

Mr. Peter Kormos: Thank you, Chair.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of government motion 25? Those opposed? Government motion 25 carries.

Shall section 68, as amended, carry? Carried.

Section 69, government motion 26: Mr. Johnson.

0950

Mr. Rick Johnson: I move that section 69 of the bill be struck out and the following substituted:

"Auditor, person conducting review engagement ceasing to hold position

"69(1) An auditor of a corporation or a person appointed to conduct a review engagement of a corporation ceases to hold that position when the auditor or person,

“(a) dies or resigns;

“(b) is declared disqualified under subsection 68(5); or

“(c) is removed under section 70.

“Effective date of resignation

“(2) A resignation of an auditor or person appointed to conduct a review engagement becomes effective at the time the resignation is given to the corporation or at the time specified in the resignation, whichever is later.”

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Just a simple question: Isn't “dies” a little redundant?

Mr. Rick Johnson: There's probably a legal reason it has to be in there.

Mr. Peter Kormos: The person's dead.

Mr. Rick Johnson: This is true.

I'll pass this one off: Is “dies” redundant?

Mr. Allen Doppelt: Well, this is a comprehensive provision—

Mr. Peter Kormos: And well drafted. I like the duality of the “dies or resigns”—from a literary, stylistic perspective, it's attractive—but “dies”? Please.

Mr. Yasir Naqvi: It takes away any ambiguity.

Laughter.

Mr. Peter Kormos: No, please, sir.

Mr. Allen Doppelt: I understand what you're saying, but we actually adopted—we have the same wording in the new federal Not-for-profit Corporations Act—

Mr. Peter Kormos: Look, I'm not going to commend them either.

Mr. Yasir Naqvi: They're wilier than us.

Mr. Peter Kormos: Okay. Thank you, Chair. I guess the acting PA will have to live with this one.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 26? Those opposed? Motion 26 carries.

Shall section 69, as amended, carry? Carried.

Government motion 27 on section 70: Mr. Johnson.

Mr. Rick Johnson: I move that section 70 of the bill be struck out and the following substituted:

“Removal of auditor, person appointed to conduct review engagement

“70(1) The members of a corporation may remove an auditor, other than an auditor appointed by a court under section 72, or a person appointed to conduct a review engagement from their position by ordinary resolution at a special meeting.

“Vacancy

“(2) A vacancy created by the removal of an auditor or person appointed to conduct a review engagement may be filled at the meeting at which the auditor or person is removed or, if not so filled, may be filled under section 71.”

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed, then, to the vote. Those in favour of government motion 27? Opposed? Motion 27 carries.

Shall section 70, as amended, carry? Carried.

We'll proceed to section 71, government motion 28.

Mr. Rick Johnson: I move that section 71 of the bill be struck out and the following substituted:

“Filling vacancy

“By directors

“71(1) Subject to subsection (3), the directors shall immediately fill a vacancy in the position of auditor or of a person appointed to conduct a review engagement.

“By members

“(2) If there is not a quorum of directors, the directors then in office shall, within 30 days after the vacancy occurs, call a special meeting of the members to fill the vacancy and, if they fail to call a meeting or if there are no directors, any member may call the meeting.

“Same

“(3) The articles of a corporation may provide that a vacancy in the position of auditor or of a person appointed to conduct a review engagement shall only be filled by vote of the members.

“Unexpired term

“(4) An auditor or other person appointed to fill a vacancy may act for the unexpired term of the auditor's or other person's predecessor.”

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 28? Opposed? Motion 28 carries.

Shall section 71, as amended, carry? Carried.

Block consideration of sections 72 to 74: Shall they carry? Carried.

Section 75, government motion 29: Mr. Johnson.

Mr. Rick Johnson: I'll pass this to Mr. McNeely.

Mr. Phil McNeely: I move that the French version of clauses 75(2)(a) and (b) of the bill be amended by striking out “vérification” wherever it appears and substituting in each case “mission de vérification”.

Le Président (M. Shafiq Qaadri): Merci, Monsieur McNeely. Des débats, des questions? Monsieur Kormos.

Mr. Peter Kormos: Take a look and help me—I'm probably wrong again—but we have “mission de vérification.” You're going to strike out “vérification” and replace it with “mission de vérification,” which means “mission de mission de vérification.” Is that what's intended?

Mr. Phil McNeely: Correct.

Mr. Peter Kormos: But help me with that, in terms of what that means.

Mr. Phil McNeely: Okay. The French word for “audit” is corrected in the two clauses.

Mr. Peter Kormos: But it's going to read “mission de mission de vérification.”

Mr. Phil McNeely: Correct.

Mr. Peter Kormos: Help me. You help me, Chair, please. You have better command of French than I ever will.

The Chair (Mr. Shafiq Qaadri): Are there any comments you'd like to add?

Mr. Allen Doppelt: The only comment I would add is that this correction, the French translation, was proposed by the French translators at legislative counsel's office to correct the French word for audit. That was their professional opinion.

Mr. Peter Kormos: But you understand what I'm saying, that if this amendment applies literally, it will replace "vérification" with "mission de vérification," so it will read "mission de mission de vérification." And that's—

Interjection.

Mr. Peter Kormos: And you speak French. But do you understand what I'm saying?

Mr. Khalil Ramal: With a translator, possibly.

Mr. Peter Kormos: Well, no. I'm not sure it's been well thought out.

Mr. Khalil Ramal: No, because this would add the "mission" that—

Mr. Peter Kormos: But it would be "mission de mission de vérification."

Le Président (M. Shafiq Qaadri): Nous avons des commentaires de législative counsel ici.

Ms. Susan Klein: In English?

Mr. Peter Kormos: Yes.

Ms. Susan Klein: Okay. That would happen if we were amending 75(1)(a) and (b), but we're amending 75(2)(a) and (b), where it only says "vérification," and so we're taking that out. See?

Mr. Peter Kormos: Okay; you're making it consistent with 75(1)(a).

Ms. Susan Klein: Yes.

Mr. Peter Kormos: Thank you. Subsection (2) was not accurate, because it had omitted it, and it wasn't parallel with subsection (1). There, good. But it was an interesting observation, wasn't it? Thank you, ma'am.

The Chair (Mr. Shafiq Qaadri): Government motion 29: Those in favour? Opposed? Motion 29 carried.

Shall section 75, as amended, carry? Carried.

Block consideration, sections 76 to 78: Shall they carry? Carried.

Section 79, government motion 30: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 79(1) of the bill be struck out and the following substituted:

"Audit committee

"(1) A corporation may have an audit committee and, if it does, the majority of the committee must not be officers or employees of the corporation or of any of its affiliates."

The Chair (Mr. Shafiq Qaadri): Comments in either language? Seeing none, we'll proceed to the vote. Those in favour of government motion 30? Those opposed? Motion 30 carries.

Shall section 79 carry, as amended? Carried.

Block consideration, sections 80 to 82: Shall they carry? Carried.

Section 83, government motion 31—

Interjection.

The Chair (Mr. Shafiq Qaadri): Sorry, PC motion 31. Ms. Munro.

Mrs. Julia Munro: I move that section 83 of the bill be amended by adding the following subsections:

"Copies available to public

"(3) At the same time that the documents referred to in subsection (1) are given to members under subsection

(2), the corporation shall make the documents available to the public and deposit a copy with the director.

"Same

"(4) The director shall maintain a publicly accessible repository of the documents deposited with the director under subsection (3)."

The purpose of this is simply to maintain that level of transparency and accountability that is the intent in this bill overall by making it available to the public, and certainly with modern technology this is something that can be done with great ease.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 31? Mr. Johnson and then Mr. Kormos.

Mr. Rick Johnson: We will not be supporting this because these amendments would require that the annual financial statements and any related audit or review engagement report of every non-profit corporation be filed with the director under the act and be made publicly available by the director. The purpose of financial statements under corporate law is to enable the members of the corporation to hold the directors accountable for their financial management of the corporation. These proposed amendments would impose significant administrative burden on non-profit corporations. If the financial statements are required for a regulatory purpose, other legislation, such as the Income Tax Act, will require that they be disclosed. On a voluntary basis, corporations can choose to make their financial statements available to non-members.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.
1000

Mr. Peter Kormos: Chair, with respect, but in response to the acting PA: horse feathers. It's not a huge administrative burden; it's a very simple process. Using the Internet, for instance, it has marginal cost, if any. It seems to me that when we're talking about these types of corporations that rely upon either public funds by virtue of transfer payments—federal, provincial or municipal—or by donations from the public, it seems to me that there is a strong public interest in ensuring that the public has access to this type of financial data.

The New Democrats support Ms. Munro and the Conservatives in this proposition, and I'll be asking for a recorded vote, please.

The Chair (Mr. Shafiq Qaadri): Unless there are further comments, we'll proceed. Ms. Munro?

Mrs. Julia Munro: Yes, I would just want to underscore the idea that there isn't a significant cost when we look at modern technology, and as Mr. Kormos has said, obviously it is public money or it's donated money. I think that this would go a long way to making the public more confident about the way in which their charitable dollars are spent. Certainly, in some quarters, there's some hesitancy. There have been experiences that people have had where they don't feel their money was spent in the manner in which it was being promoted.

I think that while we're looking at 50 years, as I believe the government has said, since much has been

done on this file, bringing it into the 21st century in terms of accountability and transparency would be consistent with the goals of the legislation in general.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 31?

Mr. Peter Kormos: Yes, please, Chair.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: I tell you, if the minister from Hamilton Mountain still had carriage of this bill, she'd be asking her caucus colleagues to be supporting Ms. Munro's amendment. Sophia is a woman of common sense.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments?

Interjection: Recorded vote.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote.

Ayes

Kormos, Munro.

Nays

Johnson, Leal, McNeely, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 31 defeated.

Shall section 83 carry? Carried.

Block consideration of sections 84 to 90: Shall they carry? Carried.

PC motion 32: Ms. Munro.

Mrs. Julia Munro: I move that part IX of the bill be amended by adding the following section:

"Treatment of revenue above cap

"90.1 The revenue of a corporation that is generated from a commercial purpose that is greater than the revenue cap shall be liable to tax in the same manner as if it were revenue of a corporation incorporated under the Business Corporations Act."

The Chair (Mr. Shafiq Qaadri): Before I allow you to proceed, Ms. Munro, with respect, I am informed that that particular motion is out of order as it imposes a new charge or tax. Of course, you're welcome to seek further counsel if necessary, but it is officially out of order.

Mrs. Julia Munro: I would just say that it also deals with issues around transparency and accountability.

The Chair (Mr. Shafiq Qaadri): As it is out of order, it is deleted from consideration and we'll now proceed to the next section.

Sections 91 to 109 inclusive: I'm going to entertain block consideration unless there are any issues anyone has with that. If not, we'll proceed. Shall sections 91 to 109 carry? Carried.

We'll proceed to section 110, government motion 33: Mr. Johnson.

Mr. Rick Johnson: I move that the English version of subsection 110(5) of the bill be amended by striking out "resolutions" at the end and substituting "resolution."

The Chair (Mr. Shafiq Qaadri): Any comments? We'll proceed, then, to the vote. Government motion 33: Those in favour? Those opposed? Motion 33 carried.

Shall section 110, as amended, carry? Carried.

Sections 111 to 112: block consideration. Shall they carry? Carried.

Government motion 34, subsection 113(2): Mr. Johnson.

Mr. Rick Johnson: I move that subsection 113(2) of the bill be struck out and the following substituted:

"Amendments in articles of continuance

"(2) A body corporate that applies for a certificate under subsection (1) may effect by its articles of continuance any amendment to its act of incorporation, articles, letters patent or memorandum or articles of association that a corporation incorporated under this act may make to its articles."

The Chair (Mr. Shafiq Qaadri): Comments? We proceed, then, to the vote. Government motion 34: Those in favour? Those opposed? Motion 34 carries.

Shall section 113, as amended, carry? Carried.

Shall section 114 carry? Carried.

Section 115, government motion 35: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 115(1) of the bill be amended by striking out "Subject to subsection (9)" at the beginning and substituting "Subject to subsection (10)".

The Chair (Mr. Shafiq Qaadri): Comments? If there are no comments, government motion 35, those in favour? Opposed? Carried.

Government motion 36: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 115(10) of the bill be amended by striking out the portion before clause (a) and substituting the following:

"Limitation—rights preserved

"(10) A corporation shall not apply under subsection (1) to be continued as a body corporate under the laws of another jurisdiction unless those laws provide in effect that,"

The Chair (Mr. Shafiq Qaadri): Comments? Shall motion 36 carry? Carried.

Shall section 115, as amended, carry? Carried.

Government motion 37, section 116: Mr. Johnson.

Mr. Rick Johnson: I move that section 116 of the bill be amended by adding the following subsections:

"Director's authorization

"(2.1) Upon receipt of the application, together with any prescribed documents and information and the required fee, the director may endorse an authorization on the application in accordance with the regulations. The endorsed application constitutes the director's authorization of the application for continuance.

"Time limit to director's authorization

"(2.2) The director's authorization of an application for continuance expires six months after the date of endorsement of the application unless, within the six-month period, the corporation is continued under the Co-operative Corporations Act.

"Termination of application

“(4) The directors of the corporation may, if authorized by the members at the time of approving an application for continuance, abandon the application without further approval of the members.”

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government motion 37? Seeing none, we'll proceed to the vote. Those in favour of government motion 37? Opposed? Motion 37 carried.

Shall section 116, as amended, carry? Carried.

Section 117, shall it carry? Carried.

Government motion 38, section 118: Mr. Johnson.

Mr. Rick Johnson: I move that section 118 of the bill be amended by adding the following subsection:

“No dissent

“(6) A member is not entitled to dissent under section 186 if an amendment to the articles is effected under this section.”

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 38? Opposed? Motion 38 carried.

Shall section 118, as amended, carry? Carried.

Section 119, government motion 39: Mr. Johnson.

Mr. Rick Johnson: I move that clause (d) of the definition of “arrangement” in subsection 119(1) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Comments? Shall motion 39 carry? Carried.

Motion 40: Mr. Johnson.

Mr. Rick Johnson: I move that the definition of “arrangement” in subsection 119(1) of the bill be amended by striking out “and” at the end of clause (g) and by adding the following clause:

“(g.1) any other reorganization or scheme involving the affairs of the corporation that is, at law, an arrangement, and”

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote. Those in favour of government motion 40? Opposed? Motion 40 carries.

Government motion 41: Mr. Johnson.

Mr. Rick Johnson: I move that clause (h) of the definition of “arrangement” in subsection 119(1) of the bill be amended by striking out “clauses (a) to (g)” at the end and substituting “clauses (a) to (g.1)”.

The Chair (Mr. Shafiq Qaadri): Comments? Shall motion 41 carry? Carried.

Government motion 42: Mr. Johnson.

Mr. Rick Johnson: I move that subsection 119(4) of the bill be struck out and the following substituted:

“Application to court for approval of arrangement

“(4) A corporation, if authorized by special resolution of the members, or of each applicable class or group of members, may apply to the court for an order approving an arrangement proposed by the corporation.”

The Chair (Mr. Shafiq Qaadri): Shall motion 42 carry? Carried.

Shall section 119, as amended, carry? Carried.

Again, with the indulgence of the committee, block consideration of sections 120 to 148, inclusive, if there are no objections. Shall they carry? Carried.

We proceed now to government motion 43, section 149: Mr. Johnson.

1010

Mr. Rick Johnson: I move that clause 149(1)(a) of the bill be struck out and the following substituted:

“(a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities;

“(a.1) after satisfying the interests of the corporation's creditors in all its debts, obligations and liabilities, if any, the liquidator shall distribute the remaining property,

“(i) if the corporation is a public benefit corporation,

“(A) if it is a charitable corporation, to a charitable corporation with similar purposes to its own or to a government or government agency,

“(B) if it is a non-charitable corporation, to another public benefit corporation with similar purposes to its own or to a government or government agency, or

“(ii) if the corporation is not a public benefit corporation,

“(A) in accordance with its articles, or

“(B) if there is no provision in its articles for distribution of property, rateably to its members according to their rights and interests in the corporation;”

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed, then, to the vote on government motion 43. Those in favour? Opposed? Motion 43 carries.

Shall section 149, as amended, carry? Carried.

Block consideration of sections 150 to 160: Shall they carry? Carried.

Section 161, government motion 44: Mr. McNeely.

Mr. Phil McNeely: I move that the French version of section 161 of the bill be amended by striking out “Sur requête d'un membre, créancier ou contribuable” at the beginning and substituting “Sur requête d'un membre, d'un créancier ou d'un contribuable”.

This is a correction of the French translation proposed by legislative counsel. The current French wording in this section is being replaced because it's non-idiomatic and potentially confusing.

The Chair (Mr. Shafiq Qaadri): Are there any further questions on government motion 44? Seeing none, we'll proceed to the vote. Those in favour of government motion 44? Opposed? Carried.

Shall section 161, as amended, carry? Carried.

Block consideration now of sections 162 to 165: Carried.

Section 166, government motion 45.

Mr. Rick Johnson: I move that subclause 166(1)(d)(ii) of the bill be struck out and the following substituted:

“(ii) if it is not a public benefit corporation, it has no property to distribute among its members or it has distributed its remaining property,

“(A) in accordance with its articles, or

“(B) if there is no provision in its articles for distribution of property, rateably to its members according to their rights and interests in the corporation; and”

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government motion 45? If not, we'll proceed to the vote. Those in favour? Opposed? Carried.

Government motion 46.

Mr. Phil McNeely: I move that the French version of clause 166(1)(e) of the bill be amended by adding “le fait” at the beginning.

It's a correction to the French translation proposed by legislative counsel. The words “le fait” have been added to be consistent with the wording of other clauses in this subsection.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: Just out of curiosity, to help me—I'm reading clause (e). In terms of literal interpretation, what does “le fait” add to it? This is personal interest; I'm not challenging you at all.

Mr. Phil McNeely: I would go to legal for this because I don't understand that difference either, but it's from someone who does—

Mr. Peter Kormos: I'm not challenging you; I just want to know now.

Interjection.

Mr. Peter Kormos: “Qu'il n'y a aucune instance”—okay, I understand that. But “le fait qu'il n'y a”—

Mr. Allen Doppelt: I'm not familiar enough with French to say. I would simply point out that in this subsection, clauses (b), (c) and (d) begin with the words “le fait.”

Mr. Peter Kormos: I see that, but linguistically, what does it mean?

Mr. Allen Doppelt: I'm sorry. I don't know French well enough to—

Mr. Khalil Ramal: It means, “I could see it happening.” It's le fait; it's like you're doing something.

Interjection: To do.

Mr. Khalil Ramal: To do. But this one here, I think it's the explanation said in the suggestion for—

Mr. Peter Kormos: The people who know are sitting up there behind the glass, smiling at us.

Mr. Khalil Ramal: They're talking about consistency with the rest of the clause, which you have to—

Mr. Peter Kormos: No, I understand that. I understand the need: You want parallelism, okay, fair enough—and sort of stylistically. But what does “le fait” mean in that sentence?

Mr. Khalil Ramal: To do.

Mr. Phil McNeely: “The fact” is a literal translation, but I believe le fait is “the act.”

Mr. Peter Kormos: I'm going to ask my friends from French-language translation after we're finished.

Mr. Khalil Ramal: You can hear it, I guess, on that. You can hear it.

Mr. Peter Kormos: No, no, but I have to understand why, because if I use that sentence, I want to be able to be sure that I'm saying it right. That's how we learn things.

Mr. Khalil Ramal: Yes, 100%.

Mr. Phil McNeely: It means “the fact that,” and the other clauses all include “the fact that.” It's the fact that there is “aucune instance en cours” against the organization. So it's consistency, but “the fact that”—that's what it means, “le fait.”

Mr. Peter Kormos: Perhaps my francophone friends will give me a more expansive explanation and help me. Thank you.

The Chair (Mr. Shafiq Qaadri): Now that it's a fait accompli, we'll proceed now to the vote on government motion 46. Those in favour? Opposed? Motion 46 carried.

Shall section 166, as amended, carry? Carried.

Shall section 167 carry? Carried.

Section 168, government motion 47: Mr. McNeely.

Mr. Phil McNeely: I move that the French version of subsection 168(1) of the bill be amended by striking out “et malgré” in the portion before clause (a) and substituting “malgré”.

A correction to the French translation proposed by legislative counsel. The current French wording in this section is being replaced because it is non-idiomatic and potentially confusing.

Interjection: En français?

Mr. Peter Kormos: That part I understood.

The Chair (Mr. Shafiq Qaadri): Thank you. Motion 47: Those in favour? Opposed? Carried.

Motion 48?

Mr. Rick Johnson: I move that subsection 168(2) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Kormos?

Mr. Peter Kormos: I request some explanation.

Mr. Rick Johnson: This amendment will give the director more flexibility in determining what is sufficient cause for cancellation in the public interest. A specific reason for cancelling a certificate of incorporation has been deleted.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments?

Mr. Peter Kormos: Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Kormos.

Mr. Peter Kormos: We're not finished yet, Mr. Johnson, because sufficient cause—the definition isn't exhaustive, includes—so help me with this. Although to be fair, the non-exhaustive definition does provide some parameters, right?

Mr. Allen Doppelt: Yes. I can tell—

Mr. Peter Kormos: Do we not want to provide some parameters?

Mr. Allen Doppelt: Well, I can tell you based on my own experience—because I've held, under delegative authority from the director, a number of these cancellation hearings—in the last 21 years in which I've been counsel to the ministry, there's only been one case in which we've ever cancelled a corporation because of its criminal activity, and that was a business corporation. It's never happened, I believe, with a not-for-profit cor-

poration. The most common reason for cancelling documents, letters patent or supplementary letters patent is their invalidity. But there may be other circumstances, for example, if the members don't pass the authorizing resolution or file the articles. That's a common reason.

Mr. Peter Kormos: But why are we not prepared to codify, as you do—help me if I've got the wrong section, but “sufficient cause”...includes conviction...for an offence under the Criminal Code...the Provincial Offences Act.” Hmm. Seems to me those are pretty clear instances where you would want to codify that that's sufficient cause, aren't they, Mr. Johnson?

Mr. Allen Doppelt: They certainly would constitute sufficient cause, but it may be a bit misleading to only list that and we can't be non-exhaustive in listing all the circumstances. I mean, the process that's followed is that it's considered carefully and, if requested by the corporation, there is a full right to a hearing. Then written reasons are provided with respect to whether or not there is sufficient cause to cancel. There's also a right of appeal.

1020

Mr. Peter Kormos: Okay. Chair, I hear the explanation.

Mr. Johnson, 20 years from now, when you and I are but shadows on those marble walls, with our names succeeded by hundreds of others, some bright young lawyer is going to reflect back on this committee hearing and say the fact that the government itself deleted 168(2) provides an argument to defend a corporation against sufficient cause if that corporation violated the Criminal Code of Canada. Do you hear what I'm saying?

Mr. Rick Johnson: I hear you.

Mr. Peter Kormos: Do you want to be responsible for that?

Mr. Rick Johnson: Me, personally?

Mr. Peter Kormos: Your name will attach to it; you know that, don't you?

Mr. Rick Johnson: We're aware.

Mr. Peter Kormos: I'm just trying to be helpful, sir.

Mr. Rick Johnson: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote, then. Those in favour—

Mr. Peter Kormos: Recorded vote.

Ayes

Johnson, Leal, McNeely, Naqvi, Ramal.

Nays

Kormos, Munro.

The Chair (Mr. Shafiq Qaadri): Government motion 48 carries.

Shall section 168, as amended, carry? Carried.

Section 169: government motion 49.

Mr. Phil McNeely: I move that the French version of subsection 169(5) of the bill be amended by striking out

“les statuts de reconstitution” at the end and substituting “le certificat de reconstitution”.

This is a correction of the French translation proposed by legislative counsel. The amendment corrects an error in the French version of this subsection. It should refer to the certificate and not the articles.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further questions? Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 49? Those opposed? Motion 49 carries.

Shall section 169, as amended, carry? Carried.

Block consideration of sections 170 to 180: Carry? Carried.

Government motion 50, section 181.

Mr. Phil McNeely: I move that the French version of section 181 of the bill be amended by adding “suivantes” after “personnes” in the portion before paragraph 1.

It's a correction of the French translation proposed by legislative counsel. An amendment has been made to the French version of this section to add a word that was inadvertently deleted.

The Chair (Mr. Shafiq Qaadri): Merci, Monsieur McNeely. Des questions, débats? We'll proceed to the vote. Those in favour of government motion 50? Opposed? Motion 50 carried.

Shall section 181, as amended, carry?

Block consideration of sections 182 to 185. Shall they carry? Carried.

Section 186, government motion 51.

Mr. Rick Johnson: I move that subsection 186(1) of the bill be amended by striking out “or” at the end of clause (c) and by adding the following clause:

“(c.1) be continued under the Co-operative Corporations Act or”

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? We'll proceed to the vote. Those in favour of government motion 51? Opposed? Carried.

Motion 52.

Mr. Phil McNeely: I move that the French version of clause 186(11)(b) of the bill be amended by striking out “son intérêt” and substituting “leur intérêt”.

This is a correction to the French translation proposed by the legislative counsel. The French version of this clause has been corrected because some words were mistakenly put in the singular when they should be worded in the plural like the rest of the subsection.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNeely. Any further comments? Those in favour of government motion 52? Opposed? Carried.

Shall section 186, as amended, carry? Carried.

Block consideration of 187 to 188. Carried? Carried.

Section 189: government motion 53(a) and (b).

Mr. Rick Johnson: I move that section 189 of the bill be struck out and the following substituted:

“Appeal from director's decision

“189(1) A person aggrieved by any of the following decisions of the director may appeal the decision to the Divisional Court by notice of appeal:

"1. To refuse to issue a certificate by endorsing any articles or other document required by this act to be filed with the director.

"2. To issue, or to refuse to issue, a certificate of amendment under section 12.

"3. To refuse to endorse an authorization under section 115 or 116.

"4. To issue an order under section 168.

"Notice to director

"(2) The aggrieved person shall also give the notice of appeal to the director within 30 days after the date of the director's decision.

"Certificate of director

"(3) The director shall certify to the Divisional Court,

"(a) the decision of the director together with a statement of the reasons for the decision;

"(b) the record of any hearing; and

"(c) all written submissions to the director or other material that is relevant to the appeal.

"Representation

"(4) The director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

"Court order

"(5) Where an appeal is taken under this section, the Divisional Court may by its order direct the director to make such decision or to do such other act as the director is authorized and empowered to do under this act and as the court thinks proper, having regard to the material and submissions before it and to this act, and the director shall make such decision or do such act accordingly.

"Director may make further decision

"(6) Despite an order of the Divisional Court under subsection (5), the director has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section."

This provides greater consistency under the Ontario Business Corporations Act.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on government motion 53? Seeing none, we'll proceed to the vote. Those in favour of government motion 53? Opposed? Carried.

Shall section 189, as amended, carry? Carried.

Block consideration, sections 190 to 194: Carried? Carried.

Section 195, government motion 54: Mr. McNeely.

Mr. Phil McNeely: I move that the French version of clause 195(1)(b) of the bill be struck out and the following substituted:

"b) aux administrateurs, à leur dernière adresse figurant dans les dossiers de l'organisation ou dans la dernière déclaration ou le dernier avis déposé en application de la Loi sur les renseignements exigés des personnes morales, selon le document le plus récent."

Again, this is a correction to the French translation proposed by the legislative counsel. The French version of this clause has been revised by adding an additional

clause to the end to be consistent with the wording of the rest of the bill.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on motion 54? Those in favour? Opposed? Carried.

Shall section 195, as amended, carry? Carried.

Block consideration, sections 196 to 201: Carried? Carried.

Section 202, government motion 55.

Mr. Rick Johnson: I move that subsection 202(1) of the bill be amended by striking out "in electronic form or in photographic film form" and substituting "in paper form, in electronic form or in photographic film form".

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Kormos.

Mr. Peter Kormos: Hmph.

Mr. Rick Johnson: This amendment reflects the fact that some corporate records are still kept in some paper form—

The Chair (Mr. Shafiq Qaadri): I'm not sure Hansard can quite record that. Would you care to rephrase, Mr. Kormos?

Mr. Peter Kormos: Hmph: h-m-p-h.

This is interesting. First, I want you to help me to make sure that the French language—because I'm reading the French section—is the parallel of "in paper form." This is a permissive section, right? It reflects the reality of our new technology. Is this just an abundance of caution, to say "in paper form"? And help me with the French-language portion of it. I'm sure it's there, because I'm reading "peuvent être conservés sous forme électronique ou sous forme de films"—is there "paper form" in the French version? I know what the words are. Show me here.

Interjection: What section?

Mr. Peter Kormos: Subsection 202(1).

The Chair (Mr. Shafiq Qaadri): Legislative counsel?

Mr. Peter Kormos: We're going to wrap this up soon. I mean, I'm ragging the puck a little bit, but—

Ms. Susan Klein: I can give a quick answer. It won't be in the French version of the current section, but there will be a French motion equivalent to the English motion that adds the same thing on the French version.

Mr. Peter Kormos: But I'm looking at the amendment. We're already at section 202(1), and then the next amendment is 207. I don't see a French—maybe you have it in your package.

Ms. Susan Klein: No, what we do is—you know how, at the top of the motion, it says that you can get the version from the clerk. I have the French versions of the motions that you have all in English. We have—

Interjections.

Mr. Peter Kormos: Wait a minute. Is that kosher, Clerk? Because we're specifically amending French versions here. We've had motions that have amended specifically the French versions and corrected them. We're amending English versions and correcting those. I presume, of course, there's some logical—I assume once

you amend the English version, a corresponding amendment applies. But how do we—yeah, this is interesting. We've had a number of errors here in the French-language parts of the bill.

1030

Mr. Khalil Ramal: Because it occurred; you correct whatever occurred in the past. But this one here is an idiomatic translation to the French version when everything is finished, which is no confusion in terms of grammar.

Mr. Peter Kormos: Okay, you're right, but I'm still interested in why we had to put "paper form" on there. Or is that just an abundance of caution?

Mr. Rick Johnson: Since the director's records for non-profit corporations dissolved before 1971 are still kept in paper form, this provision has been amended to recognize that such paper records continue to be needed.

Mr. Peter Kormos: Very good. You reflected on that a while before you put that forward.

Mr. Rick Johnson: I did.

Mr. Peter Kormos: So it's a thoughtful contribution.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of government motion 55? Carried.

Shall section 202, as amended, carry? Carried.

Block consideration, sections 203 to 206: Carry? Carried.

Section 207, government motion 56: Mr. Johnson.

Mr. Rick Johnson: I move that paragraph 4 of section 207 of the bill be struck out and the following substituted:

"4. governing corporations' names, including prescribing rules and requirements respecting their form and language, prescribing permitted words, expressions, punctuation and other marks and prescribing prohibited words, expressions, punctuation and other marks;"

This amendment provides maximum flexibility to give name rules for corporations. This power to make regulations concerning names of corporations has been broadened.

Mr. Peter Kormos: Could you highlight that for us, sir, please?

The Chair (Mr. Shafiq Qaadri): Mr. Kormos is asking a question, so we'll direct it to—

Mr. Allen Doppelt: In the third line of the clause, it talks about permitting punctuation and other marks, in the current first-reading version, and that's been changed to say "prescribing permitted words, expressions, punctuation and other marks." The last part of this clause, "prescribing words and expressions," has been expanded to also allow the power to make regulations concerning prohibited punctuation and other marks, so small technical changes to broaden the scope of the name rules that can be made by regulation.

Mr. Peter Kormos: I couldn't begin to think what a prohibited mark would be.

Mr. Allen Doppelt: Some of them might be marks—the computer system may not be able to handle certain marks; for example, the umlaut in German. It all depends

on how the computer system works. That would probably be the only reason that a mark would be prohibited.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of government motion 56? Carried.

Government motion 57.

Mr. Rick Johnson: I move that the English version of paragraph 9 of section 207 of the bill be amended by striking out "the methods of giving notice and giving or filing other documents to the director" and substituting "the methods of giving notice and giving or filing other documents to or with the director".

A small grammatical improvement has been made to this regulation-making power concerning giving notice or giving or filing documents with the director.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 57? Opposed? Motion 57 carries.

Motion 58, Mr. Johnson.

Mr. Rick Johnson: I move that paragraph 11 of section 207 of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Rick Johnson: A technical amendment to remove provisions no longer necessary because new section 66.1 of the bill specifies such rules. The power to make regulations setting out rules for voting by telephonic or electronic means at meetings of members is being deleted.

The Chair (Mr. Shafiq Qaadri): Shall motion 58 carry? Carried.

Motion 59.

Mr. Rick Johnson: I move that paragraph 16 of section 207 of the bill be amended by striking out "section 1" and substituting "subsection 1(1)".

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 59? Carried.

Shall section 207, as amended, carry? Carried.

We have block consideration of 208 and 209. Shall they carry? Carried.

Section 210, government motion 60: Mr. McNeely.

Mr. Phil McNeely: I move that the French version of clause 2(1)(c) of the Corporations Act, as set out in subsection 210(1) of the bill, be struck out and the following substituted:

"c) à l'assureur, au sens de la Loi sur les assurances, qui fait souscrire des contrats d'assurance en Ontario et qui a été constitué en vertu de la présente loi;"

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: This correction to the French translation is provided by legislative counsel. Consistency with the rest of the subsection requires the singular in this clause when referring to insurers.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 60? Those opposed? Motion 60 carried.

Motion 61.

Mr. Phil McNeely: I move that the French version of clause 2.1(1)(a) of the Corporations Act, as set out in subsection 210(3) of the bill, be amended by striking out

“de société sans-capital actions” and substituting “de personne morale sans capital-actions”.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 61? Carried.

Shall section 210, as amended, carry? Carried.

Shall section 211 carry? Carried.

We have government motion 62.

Mr. Rick Johnson: I move that part XVII—which would be 17—of the bill be amended by adding the following section:

“211.1(1) Subsection 7(1) of the Architects Act is amended by adding the following paragraph:

“27. prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the association;”

“(2) Section 54 of the act is repealed and the following substituted:

“Not-for-Profit Corporations Act, 2010

“54. The Not-for-Profit Corporations Act, 2010 does not apply to the association, except as may be prescribed by regulation.”

The Chair (Mr. Shafiq Qaadri): Mr. Johnson, before you proceed, I inform you that this motion is out of order as the particular statute is not open for the committee. However, I’m also told by legislative counsel that the committee can entertain this motion and others subsequent to it if it receives unanimous consent of the committee.

Mr. Peter Kormos: Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Kormos.

Mr. Peter Kormos: If I may, you’ll recall last week that’s the very issue the opposition parties raised, and I see there are a number of amendments that purport to respond to the concerns by a number of regulatory bodies. So let’s have that discussion right now, if we may. I’ve gone through the various motions. Have you addressed the concerns of all of the regulatory bodies that came here in these amendments? Was anybody omitted from the lineup?

Mr. Rick Johnson: I believe that everyone who presented has been addressed.

Mr. Allen Doppelt: Yes, they all have.

Mr. Peter Kormos: Is there anybody left?

Mr. Allen Doppelt: Not of the ones that appeared at the public hearing before the—

Mr. Peter Kormos: Fair enough. So can the government commit to ensuring that should there be anybody omitted or any body omitted that it will use expeditious process to amend this act once it becomes law to include those regulatory bodies?

Mr. Rick Johnson: We have two years before this becomes—I believe it’s two years—law, but I will pass over to the staff.

Mr. Peter Kormos: All I’m saying is, are you prepared for that? The prospect of there having been, again, an oversight—people were very generous with the government about these omissions last week when they were here. Is the bureaucracy prepared to deal with, from its perspective at least, anybody who was left out of the lineup of exceptions? Is that an unfair question?

Mr. Rick Johnson: No.

Mr. Allen Doppelt: Yes, we are. There have been discussions with just about every ministry in the Ontario government about working together to do a comprehensive review of all the statutes that contain cross-references to the current Corporations Act. When I did my initial review, prior to first reading, I discovered there are more than 180 such statutes, and we didn’t want to delay introduction of the bill for a year or more, but certainly there is a plan, in a coordinated way, to finish. Each ministry will review its own statutes and regulations that contain such cross-references and consult with appropriate stakeholders with a view to recommending that all these changes be made prior to proclamation of the bill, which, as the parliamentary assistant mentioned, will take approximately two years.

Mr. Peter Kormos: Because I can commit, Chair, on behalf of Andrea Horwath, should she be the province’s next Premier, that the New Democrats will accommodate any regulatory bodies that were left out of the lineup.

The Chair (Mr. Shafiq Qaadri): Thank you—

Mr. Peter Kormos: And Ms. Munro wants to add to that, I’m sure.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Munro.

1040

Mrs. Julia Munro: I wonder if, for the sake of Hansard, you could give us an idea about the format that would be required for any of those who are not listed today but who would otherwise be considered for inclusion. You’ve made reference to the fact that you’ve included everyone who came. Well, obviously, that’s only those people who knew to come. What I want to know is some kind of assurance in terms of the process that they would have, given that we’re in the process here of doing clause-by-clause and passing a bill back to the Legislature for third reading. I understand that royal assent is being put off for two years, but I want to know what process those others will have available to them to be included under this umbrella.

Mr. Allen Doppelt: Well, as I mentioned, I can only refer to the internal process within the government. There will be recommendations to the government to go forward with these amendments and to find an appropriate legislative vehicle. Perhaps this might occur in the form of an omnibus bill. That would probably be the best way to do it rather than piecemeal.

As you can see from these proposed amendments, they give certain flexibility. For regulatory bodies, the feedback we’ve received so far is that they want to have the flexibility to determine whether or not any particular provision would apply. They don’t want to simply have a provision that excludes this new legislation completely, and the format of this amendment does accommodate that by allowing a regulation to be made after consultation with the regulatory body to determine which appropriate provisions.

I can't speak on behalf of the government in terms of commitment; all I can say is that we will have this internal process and will be making a recommendation.

The Chair (Mr. Shafiq Qaadri): Mr. Leal.

Mr. Jeff Leal: Just a question to counsel: Over the next two-year period this could be amended through regulation, right? If there were a number of organizations that came forward during this two-year period, before the formal enactment of the legislation, it could be changed through regulation and being appropriately gazetted, right?

Mr. Allen Doppelt: For the amendments that we're dealing with today, yes. But not for the ones that are still subject—it will not be possible to change other statutes by regulation.

Certainly, as I said, the proposed amendments here do allow for regulations to be made providing for specific provisions of Bill 65 to apply to that regulatory body if it's considered appropriate to do so.

Mr. Jeff Leal: Having said that, over this two-year period, if indeed a number of organizations came forward and felt that they should be recognized under this umbrella, then the government, not necessarily in an omnibus bill but a specific bill to amend this bill to add them in—it could happen.

Mr. Allen Doppelt: Yes, definitely. I mentioned the internal review that we're going to do and the consultation with stakeholders; the end product of that may well be a form of omnibus bill that deals comprehensively with it.

Mr. Jeff Leal: Okay.

The Chair (Mr. Shafiq Qaadri): Mrs. Munro.

Mrs. Julia Munro: I guess I have some concern about the fact that we're here to deal with a specific piece of legislation, but it looks like it has no finality in terms of a public process because, as you point out, the regulations are not a public process. It would seem to me that this is, then, a best effort at this point and we're going to have two years in which to respond to people who might be affected in a way that they would seek to be included under this umbrella.

I'm just concerned, obviously, with the fact that the other suggestion you're making is that it would ultimately be an omnibus bill. So, in fact, this is only chapter one, and we would be looking at the government coming forward at a later date with something more fulsome to cover off these organizations that may not have been captured by this piece of legislation.

The Chair (Mr. Shafiq Qaadri): Mr. Kormos.

Mr. Peter Kormos: I'm sorry. I wanted to be put on the speakers' list, but perhaps there was a response.

The Chair (Mr. Shafiq Qaadri): Go ahead.

Mr. Allen Doppelt: Well, as I said, I can't speak on behalf of the government. I was referring to the internal process we might follow.

Let me put it this way: The basic rule in the statute is that it applies to all not-for-profit, non-share capital corporations. In many cases, the complementary amendments do not relate at all to regulatory bodies. There's

legislation in which certain provisions are made applicable to non-share capital corporations, so those references to the current Corporations Act will need to be updated to refer to this new piece of legislation. I think the regulatory bodies part is actually a small part of the overall total amendments that will be needed.

As I say, all we can do is initiate this process, which I am assuming will start shortly after this bill receives royal assent, if it does so, with a view to completing this well before the legislation will be proclaimed in force.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Kormos?

Mr. Peter Kormos: Yes, Chair. As you'll recall, I, with some concern, anticipated this problem last week. I don't criticize anybody, but it would have been nice for the government to have contacted the two opposition parties about this need for unanimous consent and to let us know—well, the amendments were tabled, of course, but to let us know that they'd be seeking that. We are going to grant it; we're not going to deny unanimous consent.

This is one of the worst possible ways, though, to make legislation. Here we are, and the argument is, "Well, this bill hasn't been visited for 50 years, and it's unlikely to be revisited for another 50 years, quite frankly"—and a very important sector in our community, the not-for-profit sector.

You'll recall that the time allocation motion that forced this bill into committee was done when the government House leader was particularly miffed because she was the subject matter of a point of privilege in the House accusing her of contempt of Parliament. She had locked horns with the Conservative opposition over an opposition day, and the government House leader, miffed as she was—

Interjection.

Mr. Peter Kormos: Oh, she was spitting bullets, for Pete's sake, Jeff. You should have seen her. You wouldn't have wanted to get in her way. She threw the gauntlet down and she passed a time allocation motion. This bill was supposed to go to Kitchener, Kingston and Sudbury.

I approached the government House leader and said, "Why are you being so restrictive in your time allocation motion, because what if there's no response in any of those communities?" Again, she was fit to be tied; she was really upset about other things—and I understand why she was upset. If I had been in her shoes, I probably would have been angry too, but Lord knows I've been around here long enough that I probably wouldn't have been in her shoes. She was hell bent—

Mr. Jeff Leal: That's a true comment.

Mr. Peter Kormos: I'm sorry, Mr. Leal? Fair comment?

Mr. Jeff Leal: Oh, no. I said "true comment."

Mr. Peter Kormos: "True comment," he said. Yes. He's on record now.

It happened in a moment of pique. People were angry. The government was angry. The government House

leader was angry. We didn't go to Kitchener because there were only a handful of people who wanted to participate in Kitchener. We didn't go to Sudbury for the same reason. In Kingston, I think there was nobody.

Part of the problem is that it was in the heat of the summer. It was in the dog days. It was August, when you're unlikely to get interested people. I thought there would be a whole lot more participation, quite frankly, from the public than there was. But these are mostly volunteer board agencies with modest staffs. So I got a feeling that there's a whole lot of people who might have had things to say about this. Thank goodness for the Ontario Nonprofit Network, because they seemed to consolidate the arguments into one package and to have gotten some uniformity. But good grief. The committee should not have had its hands tied by a time allocation motion to start with. We should have had committee hearings into September, after these various boards got back to meeting after the Labour Day weekend.

So here we are. I'm not criticizing the staff, because I have every confidence in the staff. Their political leadership is a different story, but—

Mr. Khalil Ramal: Good leadership.

1050

Mr. Peter Kormos: Look, I'm going to have a word with Sophie; you know? She's my dear friend. She was born in Welland, as I was. But she's got some explaining to do about how this thing got to where it was without being properly supervised.

So as I say, I'm going to give consent. I trust what the staff tell us. But I also want to make it clear that the record should indicate very, very clearly that everybody's in agreement that anybody omitted should be dealt with quickly and promptly.

I hear you say "omnibus bill." I know what you mean by "omnibus bill," sir, but when I see "omnibus bill," I see a whole bunch of really crappy government stuff with some good things buried in it—or some bad things buried in it, more likely, that they greased up and tried to slide through in the dark of the night.

But then again, in a year's time, probably it will be another government. I hope Mr. Johnson's still here. Quite frankly, I think all these people would be good opposition members. I look forward to seeing them in the next Parliament. You, too, Chair; you'd make a very good opposition member.

The Chair (Mr. Shafiq Qaadri): I look forward to joining you, Mr. Kormos. I accept your good wishes.

Mr. Peter Kormos: Whoa. Don't be presumptuous. Who's to say I'll still be in opposition?

Let's move ahead with these, with the understanding—I think everybody agrees—that we're going to accommodate groups that might have been overlooked.

The Chair (Mr. Shafiq Qaadri): Fine. So I'll take it as unanimous consent to open all these particular motions. We'll then proceed to the vote on government motion 62, section 211.1. Those in favour of government motion 62, which has already been read? Those opposed? Motion 62, carried.

Government motion 63.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"211.2(1) Section 3 of the Certified General Accountants Act, 2010 is amended by adding the following subsection:

"Application of Not-for-Profit Corporations Act, 2010

"(5) The Not-for-Profit Corporations Act, 2010 does not apply to the association, except as may be prescribed by regulation."

"(2) The act is amended by adding the following section:

"Regulations

"63.1 The Lieutenant Governor in Council may make regulations prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the association."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? We'll proceed to the vote. Those in favour of government motion 63? Carried.

Motion 64, Mr. Johnson.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"211.3(1) Section 3 of the Certified Management Accountants Act, 2010 is amended by adding the following subsection:

"Application of Not-for-Profit Corporations Act, 2010

"(5) The Not-for-Profit Corporations Act, 2010 does not apply to the corporation, except as may be prescribed by regulation."

"(2) The act is amended by adding the following section:

"Regulations

"66.1 The Lieutenant Governor in Council may make regulations prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the corporation."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Those in favour of government motion 64? Carried.

Motion 65.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"211.4(1) Section 3 of the Chartered Accountants Act, 2010 is amended by adding the following subsection:

"Application of Not-for-Profit Corporations Act, 2010

"(5) The Not-for-Profit Corporations Act, 2010 does not apply to the institute, except as may be prescribed by regulation."

"(2) The act is amended by adding the following section:

"Regulations

"61.1 The Lieutenant Governor in Council may make regulations prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the institute."

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 65? Those opposed? Motion 65 carried.

Block consideration of 212 and 213: Shall they carry? Carried.

Now, I understand, on 214, what's labelled as government motion 66 is not a motion, so we don't actually need it to be read. Is that agreeable? Agreeable.

We now proceed to—
Interjection.

The Chair (Mr. Shafiq Qaadri): Pardon me?

Mr. Peter Kormos: On section 214—

Mr. Rick Johnson: The act being amended has been repealed and the amendment is no longer required.

Mr. Peter Kormos: So 214 is dealt with where and how? In these previous motions?

Mr. Rick Johnson: I'll get an explanation.

The Chair (Mr. Shafiq Qaadri): We'll now actually proceed to the vote on section 214.

Mr. Peter Kormos: No, but we're debating it.

The Chair (Mr. Shafiq Qaadri): Yes.

Mr. Peter Kormos: Quite right. Help me. It was dealt with in these previous amendments?

Mr. Allen Doppelt: No, no. What happened is we discovered after first reading that this particular provision, clause 6(1)(m) of the Commitment to the Future of Medicare Act, 2004, was repealed on June 8 by section 18(1) of an act called the Excellent Care for All Act, 2010. So you don't need an amendment anymore because it has been repealed.

Mr. Peter Kormos: It's not there. Fair enough. But to be fair, had this been overlooked and become part of the bill, we've passed legislation, haven't we, here at Queen's Park, that would permit these sort of expired sections to be expunged? Do we have that capacity?

Ms. Susan Klein: Under the Legislation Act, 2006, I don't think we would repeal it. It might be marked obsolete, but I think you'd still have to repeal it.

We might have that power. We haven't exercised that kind of a power yet, if we do have it. I don't know.

Mr. Peter Kormos: So we're not sure whether there is a power to expunge?

Ms. Susan Klein: No, I'm not sure there's a power to actually repeal it. We certainly don't do it; we would just mark it as obsolete.

Mr. Peter Kormos: Thank you kindly. More trivia, folks.

The Chair (Mr. Shafiq Qaadri): May we proceed, then, to the vote on section 214? Shall section 214 carry? Carried.

Interjection.

The Chair (Mr. Shafiq Qaadri): I'm sorry, it's lost. Fair enough.

Mr. Peter Kormos: They put it in writing. You're supposed to vote against it.

Now, shall we do that again—on consent, Chair? We'll expunge that last foolish vote.

The Chair (Mr. Shafiq Qaadri): On consent. Section 214: Those in favour? Those opposed? Defeated. Thank you, Mr. Kormos, for your clarifications.

Block consideration of sections 215 to 225: Shall they carry? Carried.

Government motion 67, section 225.1: Mr. Johnson.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"225.1(1) Section 6 of the Law Society Act is repealed and the following substituted:

"Application of Not-for-Profit Corporations Act, 2010

"6. The Not-for-Profit Corporations Act, 2010 does not apply to the society, except as may be prescribed by regulation."

"(2) Subsection 53(2) of the act is repealed and the following substituted:

"Application of Not-for-Profit Corporations Act, 2010

"(2) The Not-for-Profit Corporations Act, 2010 does not apply to the foundation, except as may be prescribed by regulation."

"(3) Section 59 of the act is amended by adding the following clause:

"(d) prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the foundation."

"(4) Subsection 63(1) of the act is amended by adding the following paragraph:

"1. prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the society;"

The Chair (Mr. Shafiq Qaadri): Comments on government motion 67? Seeing none, we'll proceed to the vote. Those in favour of government motion 67? Opposed? The motion is carried.

Block consideration of sections 226 to 232: Shall they carry? Carried.

Section 232.1, government motion 68: Mr. Johnson.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"232.1(1) Subsection 7(1) of the Professional Engineers Act is amended by adding the following paragraph:

"34. prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the association."

"(2) Section 49 of the act is repealed and the following substituted:

"Application of Not-for-Profit Corporations Act, 2010

"49. The Not-for-Profit Corporations Act, 2010 does not apply in respect of the association except as may be prescribed by regulation."

The Chair (Mr. Shafiq Qaadri): Further comments, considerations on government motion 68? Seeing none, we'll proceed to the vote. Those in favour of government motion 68? Opposed? Motion carried.

Government motion 69, Mr. Johnson.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

"232.2(1) Section 18 of the Public Accounting Act, 2004 is amended by adding the following subsection:

"Application of the Not-for-Profit Corporations Act, 2010

"(5) The Not-for-Profit Corporations Act, 2010 does not apply to the council, except as may be prescribed."

“(2) Subsection 42(1) of the act is amended by adding the following clause:

“(g) prescribing provisions of the Not-for-Profit Corporations Act, 2010 that apply to the council.”

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 69? Opposed? Motion 69, carried.

Block consideration: Shall sections 233 to 239 carry? Carried.

Government motion 70; section 239.1.

Mr. Rick Johnson: I move that part XVII of the bill be amended by adding the following section:

“239.1(1) Section 6 of the Veterinarians Act is amended by adding the following subsection:

“Minister’s regulations

“(2) The minister may by regulation prescribe provisions of the Not-for-Profit Corporations Act, 2010 that apply to the college.”

“(2) Subsections 47(1) and (2) of the act are repealed and the following substituted:

“Application of acts

“Not-for-Profit Corporations Act, 2010

“(1) The Not-for-Profit Corporations Act, 2010 does not apply in respect of the college except as may be prescribed by a minister’s regulation made under subsection 6(2).

“Interpretation

“(2) For the purposes of subsection (1), a member of the council shall be deemed to be a director.”

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 70? Carried.

Block consideration, sections 240 to 242: Carried? Carried.

Title of the bill, carried? Carried.

Bill 65, as amended, carried? Carried.

Report the bill to the—yes, Mr. Kormos?

Mr. Peter Kormos: I simply want to thank the staff who assisted us with research and these wonderful

binders, which are very useful when we get into these committee processes.

I want people to know that Mr. Johnson, who did most of the heavy lifting for the government on this bill even though he’s not the parliamentary assistant, did an exemplary job. My saying that probably doesn’t enhance his cabinet aspirations, but I feel compelled to say it in any event. It was a pleasure working with Mr. Johnson. Of course, he’s the only person here today who was here during the hearings last week, right? His four colleagues are filling in as the voting machines that they’re expected to be; I understand that. But Mr. Johnson was a pleasure to work with and was helpful and co-operative and made this process run more smoothly than it might have, were it not for his collegial, capable and competent stewardship of the bill. For the life of me, I don’t know why he wasn’t put into cabinet last week.

Mr. Rick Johnson: I’ll just thank Mr. Kormos for his comments. I would especially like to thank Mr. McNeely for handling all the French translation corrections because, failing that, we’d still be on clause 29. I just want to thank you for that.

I appreciate your comments. Thank you.

The Chair (Mr. Shafiq Qaadri): I think, Mr. Kormos, many members of the government caucus are also in the same position: We do like Mr. Johnson, but we’re not really sure why. In any case—

Mr. Peter Kormos: You’re not sure why he’s not in cabinet, either.

The Chair (Mr. Shafiq Qaadri): —shall I report the bill, as amended, to the House?

Interjection.

The Chair (Mr. Shafiq Qaadri): I’ll take that as a yes.

If there are no further comments, committee is adjourned.

The committee adjourned at 1102.

CONTENTS

Tuesday 31 August 2010

Not-for-Profit Corporations Act, 2010, Bill 65, Mr. Gerretsen / Loi de 2010 sur les
organisations sans but lucratif, projet de loi 65, M. Gerretsen..... SP-229

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mr. Joe Dickson (Ajax–Pickering L)

Mr. Peter Kormos (Welland ND)

Mr. Jeff Leal (Peterborough L)

Mr. Phil McNeely (Ottawa–Orléans L)

Mrs. Julia Munro (York–Simcoe PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Lou Rinaldi (Northumberland–Quinte West L)

Also taking part / Autres participants et participantes

Mr. Allen Doppelt, senior counsel,
Ministry of Consumer Services

Clerk pro tem / Greffière par intérim

Ms. Susan Sourial

Staff / Personnel

Ms. Susan Klein, legislative counsel

SP-11



SP-11

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Tuesday 5 October 2010

Journal des débats (Hansard)

Mardi 5 octobre 2010

Standing Committee on Social Policy

Committee business

Comité permanent de la politique sociale

Travaux du comité

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 5 October 2010

Mardi 5 octobre 2010

The committee met at 1605 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome to the Standing Committee on Social Policy. As you know, we've had a special notice of motion filed by Ms. Witmer. I would invite her to please begin that in a moment.

I'd just advise the committee that standard practice is to divide evenly amongst the parties the 30 minutes that we have allocated here. If that's agreeable or not, we can debate, but I'd invite Ms. Witmer to begin the motion.

Mrs. Elizabeth Witmer: Under standing order 126(a), I move that the Standing Committee on Social Policy immediately undertake a comprehensive study of living conditions at seniors' homes, including nursing and retirement homes, and report back to the Ontario Legislature with recommendations on what measures should be taken to improve these conditions for Ontario seniors. The study conducted by the social policy committee will include a briefing by ministry officials and appearances from witnesses with insight into the matter.

I ask that the social policy committee hold an immediate 30-minute debate under standing order 126(b) at the next available committee hearing date and time, Tuesday, October 5, 2010, at 3:45 p.m. or following routine proceedings in the House.

The Chair (Mr. Shafiq Qaadri): This motion is now in effect. The 30-minute clock starts running now. Ms. Witmer, I offer you the floor for 10 minutes.

Mrs. Elizabeth Witmer: Regrettably, last week we once again became aware of some of the unbearable conditions under which seniors in this province live.

I would submit to you that at the current time, this government has not provided the resources or come up with a plan to accommodate our aging population. So, today, we have no idea as to when and where the long-term-care beds will be located that are going to be required for the 24,000 people who are currently on the waiting list. We have only 77,000 nursing home beds in our province, and we have 24,000 people waiting. In my own community alone, we have 2,000 people waiting.

What is happening with these people? We know that some of them are going to retirement homes. We have 40,000 other seniors who are living in about 600 retirement homes. But I would submit to you that not all of the individuals who are seeking accommodation there should

be there, because many of these individuals require full-time nursing support. But they have nowhere else to go, and families don't know what to do with their mothers and their fathers.

1610

Again, this has happened because this government has not recognized that we have a growing elderly population. The last time we saw a plan for this growing elderly population was in 1998, when our government announced an additional 20,000 long-term-care beds for this population.

Currently in the province of Ontario we have an overburdened elder care system. As a result, people are ending up in retirement homes, and not all of these homes are members of the Ontario Retirement Communities Association. As a result, we are finding that some of these homes are not providing the care that is required for these elderly individuals. We continue to hear horror stories of seniors who are suffering from dementia sitting in feces-filled diapers, bathrooms without toilet paper or clean towels, bad food, broken appliances and workers who are underpaid and stressed.

We are passing this motion today in order that we can, once and for all, address the needs of our growing aging population and to ensure that anyone who's living in these homes or living elsewhere can be treated with the dignity and the respect that they deserve. I believe it is extremely important that we, today, adopt this motion and that we report back to the Legislature with measures, because we can no longer delay. These people have been waiting now for seven years for a plan of action and we just don't see any. We have to make sure there's oversight, inspection and that these people are treated with dignity and respect.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer. You still have six minutes, if you'd like to make any further comments.

Ms. Elliott?

Mrs. Christine Elliott: I certainly support the motion that my colleague has brought forward. I would like to just read into the record, if I may, the letter that I sent to you as Chair of the committee asking for some action to be taken as a result of the probe that was conducted by the reporters at the Toronto Star. My letter is dated October 1 and reads as follows:

"Dear Mr. Qaadri,

"I am writing to you today on a matter of great urgency and great public concern.

"A Toronto Star report released today reveals shocking and disturbing details of horrible living conditions at a retirement home in Toronto. In particular, the report highlighted examples of people left in urine- and feces-filled diapers for hours, cases where people were forced to wipe themselves with their hands because there was no toilet paper, and allegations of assault.

"The Ontario PC caucus is concerned that these living conditions are not isolated to just one retirement home in Toronto. As the report in the Toronto Star says, 'The story of this home is played out more and more across the province.' It is simply unacceptable that our parents and grandparents, who did so much to build our great province, are left to live in these horrible living conditions.

"These reports are also very alarming for Ontario families who are facing decisions about how to ensure their parents are taken care of in their elderly years. These families need the peace of mind that their parents will receive good, quality care.

"In 2004, then-Minister of Health and Long-Term Care George Smitherman vowed a 'revolution in nursing home care' after being moved to tears by media reports that showed residents were receiving poor care. In 2008, Premier Dalton McGuinty promised to 'do better' after a survey completed by the Canadian Press revealed that three quarters of nursing homes in Ontario failed to meet provincial standards.

"Sadly, today's report reveals that nothing has changed and many Ontario seniors continue to suffer.

"Therefore, the Ontario PC caucus is calling for the Legislative Assembly's Standing Committee on Social Policy to immediately undertake a comprehensive study of living conditions in Ontario's long-term-care homes, retirement homes, nursing homes and other facilities providing care to seniors.

"We believe this study will produce concrete, practical recommendations to prevent a repeat of the shocking cases revealed today, make life better for our parents and grandparents, and give families the peace of mind they need that their loved ones are taken care of.

"The details that have been revealed today require urgent action. It is our hope that you will immediately call a meeting of the Legislative Assembly's Standing Committee on Social Policy to deal with this matter."

It's signed by myself.

There are a couple of points that I would like to make in addition. There is a difference, of course, between the retirement homes that were the subject of the Toronto Star probe and our nursing homes, our long-term-care facilities. We have a situation where, with respect to retirement homes that are self-owned and self-governed and don't receive any government money, they already have a self-regulatory system in place. About 70% of all of the retirement homes in Ontario are members of the association. They do have licensing; they do have random inspections. So by and large, we're not talking about the vast majority of retirement homes that are operated properly. But there is a 30% group that is not included, that may have some rogue operators. These are

the people and the groups that we want to be investigated to make sure that our vulnerable seniors are not being taken advantage of and are being cared for properly.

The response that we've received so far from the government is, "Don't worry, we've got the Retirement Homes Act that's going to be coming into force, and this is going to take care of everything." But I would say that's not the case.

I'd like to quote from an editorial, again in the Toronto Star from October 3, that said, "The legislation has yet to come into force because provincial bureaucrats are still drafting the regulations and recruiting the members of the new regulatory authority." In other words, it is going to take time in order for this system to be put into place.

We don't have time on our side here. This requires urgent action. That's why we in the PC caucus are calling on the social policy committee to undertake this review immediately, to make sure that no more of our seniors are left in peril in some of these facilities that are not operating properly.

I believe there's a bigger point to also be made here, though, and that is, what happens when some of these retirement homes are forced to operate within the regulations? They currently have residents who require long-term-care facilities and care who won't be able to stay in retirement homes afterwards. What's going to happen to them? I think we need to take a look at the bigger picture within the context of this committee to make sure that we do have placements. We've got a tsunami of baby boomers coming forward in the next five to 10 years. We need to deal with this. We need to make sure that we have a proper balance of long-term-care facilities, of retirement homes, and also of facilities within their community. We've certainly seen evidence that the facilities in the community are not up to the needs of our community, and we need to make sure that we have those in place so that our seniors who can remain home have the facilities they need.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott, and thank you, Ms. Witmer, for your presentation. I'll momentarily offer the floor to the NDP caucus.

Some of the members of the committee were asking about filming. It's the will of the committee if they allow or do not allow these proceedings to be filmed, so if there are any comments—yes, Mr. Levac.

Mr. Dave Levac: I'd like to know who it is that is filming and for what purpose.

The Chair (Mr. Shafiq Qaadri): The purpose is no doubt to immortalize us. The individuals are the PC caucus, I understand.

Mr. Dave Levac: I'd like to continue that. Even though I understand that being immortalized by our committee is one thing, I'd like to know if they've given a reason why they're taping.

The Chair (Mr. Shafiq Qaadri): I don't know if anyone here is really empowered to answer that question. I think I would just stick to the matter at hand.

Is it the will of the committee that the filming be allowed or not?

Mr. Dave Levac: Sure.

The Chair (Mr. Shafiq Qaadri): Agreed? Fair enough.

Maintenant je passe la parole à M^{me} Gélinas. Vous avez 10 minutes pour votre présentation.

M^{me} France Gélinas: I was as shocked and disgusted as everybody else when I read the piece in the Toronto Star and when I went online and looked at their video. What we saw was deplorable. It was shocking. It was hard to believe that it was actually happening in Ontario. But then I put my realistic glasses back on and I said, "I know that those things are happening. We've been wanting regulation of the retirement home industry for 10 years."

1620

There are some retirement homes that do beautiful care at a good price for the people who live there. There are some that give value for money. There are some that provide quality care, but at a price that is way beyond what is being provided. And there are some that provide sub-quality care at a price that nobody should pay.

The government, in April 2010, brought forward Bill 21, the Retirement Homes Act, and I had been waiting and asking for that act for a long time. You can go back through Hansard, and here I'd stand, month after month, year after year, since I've been elected, asking for regulation of retirement homes.

We know that there is a critical mass of very fragile, very demanding—not demanding; that's the wrong word—very needy people there, and yet, for years, this industry went on completely unregulated. Then the bill came forward, and basically all that the bill did was create a self-regulation. Self-regulation, when you deal with a critical mass of vulnerable people, does not work.

The report that the Toronto Star did, I'll bet you, could be repeated in dozens of communities across Ontario. It could be, unfortunately, repeated in my own riding. Things have to change.

The NDP voted against the Retirement Homes Act because when you have this critical mass of vulnerable people, self-regulation doesn't cut it. There will be bad apples like what we saw in the video and what we read about. I mean, she stood there and told the Toronto Star that he had made this up. She won't even admit it. How do you expect things to improve when people who have been found guilty for everyone to see don't even address the issue and say, "Yes, I've done wrong. I'll try to improve"? She actually blamed the reporter and said, "You've made this up." We're a long way from improvement.

And those are the people who will self-govern? Those are the people who will do the self-regulation? Who are we kidding here? Aren't we there to protect the most vulnerable in our community, in this province? How do you judge a community? You judge it by the way they look after the vulnerable in their population. If we are being judged right now, we're all failing.

What the PC caucus is asking is that all of those dirty secrets that we have in all of our ridings, all of those homes that are substandard, that are no better than the videos we saw on the Toronto Star, let's air them out. Let's at least admit that we have among our midst those deplorable conditions that exist and that we are turning a blind eye on. All the PC Party is asking is, "Let's go and investigate. Let's go and have a look. Let's not wait for another journalist to pretend he needs care so that we have every single big newspaper in this province running their own stories." I can think of a couple of reporters in Sudbury who could pull the exact same stunt, and I could tell them which home to go into.

If you spend any time in your constituency office, I bet you've got the phone calls since the Toronto Star article. I bet you know of some of the homes in your riding that are no better than the homes that we saw.

Isn't it incumbent upon us to have a look at what's going on? If there's nothing to find, then that's going to be great news, and I'll be all wrong and I'll be so happy to be wrong. I just can't tell you how happy I will be. But if I'm not wrong, and if all those emails, letters and phone calls we've been getting are actually true—and if I'm getting them, I'm sure you are too—then it's worth having a look. It's worth having a look so that this role that we have—as part of the Legislature of Ontario, we can do something to protect the vulnerable in our communities. We can act upon this motion and go and have a look.

What will it hurt? What bad can come of this, to go and have a look? Why wouldn't we want to go and have a look? I mean, the minister responsible for seniors' affairs—the Minister of Health said that it's keeping her up at night. She was disgusted by what she saw. What if there are other homes out there? Wouldn't you want to shine a light on them? Wouldn't you want to go have a look so that you can protect those people who are living the same hell as we saw?

They deserve better than this. They deserve to have somebody helping them. They have no voice. They cannot advocate for themselves. They're not in a position where they can advocate for their rights or put in a complaint or even fill out a questionnaire or a complaint form. Those are people who are way past the stage of being able to advocate for themselves. They need help, and we are in a position to reach out and help them. We are in a position to be their voice, to be their advocate and to protect them and help them out.

Why would we throw away this opportunity? All that they're asking is that we do a study. Go and have a look. Ask the MPPs which homes in their ridings they would like you to go have a look in. Select half a dozen homes and go and have a look. Then we will be in a position to act.

The motion from the PC caucus also includes nursing homes. I know that the government has invested a substantial amount of money in trying to make things better in long-term-care homes, nursing homes being one type of long-term-care home, with homes for the aged etc.

There were 2,000 nurses promised. We're still 1,100 short on that promise. There were 2,500 PSWs promised. There has just been, as of Friday, October 1, 527 more that will be financed, but we're still 1,100 PSWs—sorry, I misquoted. It's 1,380 nurses we're still short on the 2,000 RNs promised, and of the 2,500 PSWs, we were 1,627 short. With the announcement of October 1, we're 1,100 PSWs short.

It could be worth having a look at some of those homes as well. The long-term-care act of 2007 brought in a new way of doing things in long-term care. It took a long time for the regulations to come out of this. It was, "Wait for the Sharkey report." Basically, in the summer of 2007, we finally saw the regulations. But all of the promises to make things better have not been rolled out. Some of the homes, especially some of the for-profit homes, are not up to par either and are worth having a look at.

You're waving to me, Mr. Chair?

1630

Le Président (M. Shafiq Qaadri): Votre temps a expiré. Merci.

Thank you very much, Madame Gélinas, for your remarks.

I now offer it to the government side. Mr. Dhillon.

Mr. Vic Dhillon: I, too, was quite disturbed to see the story in the Star. I want to thank the Toronto Star for bringing this very important issue to our attention.

I will not be supporting this motion because I think it's time for action. That's why we introduced and passed the Retirement Homes Act this past spring. The act is an important step forward. For the first time in Ontario's history, seniors in retirement homes will have greater protections under provincial legislation. The Retirement Homes Act is about making retirement homes places where residents can live with dignity, respect, privacy and autonomy; enjoy security, safety and comfort; and make informed choices about their care options.

This act is about making that reality safer. We don't need to go out again and do more studies. We have already consulted extensively with seniors, operators and experts. The Ontario Seniors' Secretariat visited 12 communities across Ontario from January to March 2007. We spoke to more than 800 people, including seniors and their families, consumer advocates, municipalities, seniors' organizations, community service providers and retirement home providers. We received more than 200 additional written submissions.

We know that there are a wide range of retirement homes out there. Most of these homes provide a safe place that seniors choose to call home. The food is prepared with care, the buildings are up to standard and the residents are safe and happy. A few, as we heard, are not up to standard. When the act is in full force, homes that are not up to standard would not be allowed to operate in this province. Homes will be inspected regularly, sometimes without notice. Complaints will be reviewed and, if necessary, investigated. Homes that do not meet care and safety standards will be penalized accordingly.

The interim board will hold its first meeting this year, and rest assured, we will recruit the right people with the right skills to effectively get this authority off the ground and operational. I want to be clear: The board and the authority will not be self-regulated by the industry or any other sector.

The board also will not be dominated by retirement home operators. The minister has the power to make an order indicating who can serve as a director, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected, and that order would prevail over a board bylaw. The power to overrule, an important oversight feature of this act, should put to rest any fears that the authority will be dominated by any one sector.

The safety and well-being of Ontario seniors is a goal of all of us in this room. That goal is at the heart of the Retirement Homes Act. The unfortunate fact is that for 20 years, advocates, seniors, families and governments have been talking about regulation of retirement homes. Today, we're doing something about it. Our government was the first to act. We've already taken sufficient time to study the issues. Now we're ready to act. This isn't time to go backwards. Let's move forward.

We know that the Conservative members supported the bill at third reading, and I hope to see their continued support.

The Chair (Mr. Shafiq Qaadri): There are still five minutes left on the government clock. Mr. Levac.

Mr. Dave Levac: I appreciate the opportunity.

I want to reinforce what my colleague on this side has indicated by pointing out a couple of interesting points. The opposition has mentioned the number of years that it has taken to come up with legislation. One of the members indicated that it took 10 years; another one said it was seven years of inactivity. Unfortunately—I hate to say this—the kinds of stories that we saw, which saddened and actually sickened me, have been going on much longer than that.

At that time, and until this piece of legislation was passed, the only way in which a retirement home was regulated was under the building code or, in an extraordinary case, the medical officer of health could perform a special duty. Those were the only two areas in which retirement homes could be regulated. Therefore, I find it interesting that history has been forgotten beyond seven years and, in the case of my friend from the NDP, 10 years, in terms of the reference.

One of the important things here is that I would respectfully suggest that there is not one single member in the House who did not want to see some type of action taken on retirement homes, not just because of a story in the Toronto Star but because of their own personal experiences, because my understanding is that those that I've spoken to and those that have spoken to the topic have indicated their own personal knowledge of constituents telling them about concerns they've had about retirement homes. So I want to reinforce and suggest that the member beside me is right in assuming that we want

to move forward and take action on this, and that this particular bill, passed with the support of the PC caucus, is an extremely important first step in ensuring that our retirement homes are within legal bounds.

The board, and I want to point this out, is competency-based in its appointment and may include residents of a retirement home, may include family members of the residents, may include representatives of seniors' organizations; it may also have individuals on their own who have advocated for seniors; licensees, yes; representatives of business, yes; government, yes; government organizations or other interests—that's what the board can consist of, and quite frankly, that is a good way in order for us to have a broad-stroke approach to understanding what's going on in those residences.

I would also point out one other issue that was brought up, and that is licensing. A not-for-profit corporation, this board that we're talking about, is at arm's length to the government and is funded by applications and licensing fees of retirement homes. All retirement homes—whether they're a member of ORCA or not—will fall under this legislation. Licensed retirement homes—that's what they'll do. They'll educate the operators and staff at the retirement homes; they'll inform consumers and maintain public registers of all of the homes, which we do not have at this time; they will handle customer complaints; they will conduct inspections, investigations and enforcement, sometimes without notice; and they will offer dis-

cipline to the conduct of the licensees, including the ability for the minister, which would be obtained in this legislation, to appoint another administrator or else shut the house down. I think that's an important aspect of what we're talking about here. That's the action that we're talking about here. That is what has been sparked by the discussion.

My final point is that it has almost been implied that this legislation has done nothing. It just got passed. The story was pre-legislation, and these horror stories have continued for 20 years. Now that we have the legislation, we now have something with teeth in it that allows us to actually shut these places down. That's what I would want to recommend to the members: that if we start moving backwards again, we're not moving forward, and that means that another Star story is quite possible.

I want to thank you for the opportunity to speak.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Levac. Government time has now expired as well. I believe we've fulfilled the requirements of the motion.

If there's no further comment, I'll now proceed to the vote. Those in favour of the PC motion as presented by Ms. Witmer? Those opposed? I declare this motion to have been defeated.

That will, unless there's any further comment, adjourn the committee, but I'd invite the subcommittee members to please stand by. Committee adjourned.

The committee adjourned at 1639.

CONTENTS

Tuesday 5 October 2010

Committee business SP-251

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mrs. Christine Elliott (Whitby–Oshawa PC)

M^{me} France Gélinas (Nickel Belt ND)

Mr. Dave Levac (Brant L)

Clerk pro tem / Greffier par intérim

Mr. Trevor Day

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service



SP-12

SP-12

ISSN 1710-9477

Legislative Assembly of Ontario

Second Session, 39th Parliament

Assemblée législative de l'Ontario

Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 18 October 2010

Journal des débats (Hansard)

Lundi 18 octobre 2010

Standing Committee on Social Policy

Narcotics Safety
and Awareness Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur la sécurité
et la sensibilisation
en matière de stupéfiants

Chair: Shafiq Qaadri
Clerk: Susan Sourial

Président : Shafiq Qaadri
Greffière : Susan Sourial

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 18 October 2010

Lundi 18 octobre 2010

The committee met at 1406 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I officially call to order the Standing Committee on Social Policy. As you know, we're here to hear Bill 101, An Act to provide for monitoring the prescribing and dispensing of certain controlled substances.

The first order of business is having the previous subcommittee report read into the record, for which I will call upon Mr. Johnson.

Mr. Rick Johnson: Your subcommittee met on Tuesday, October 5, 2010, to consider the method of proceeding on Bill 101, An Act to provide for monitoring the prescribing and dispensing of certain controlled substances, and recommends the following:

(1) That the committee meet in Toronto on Monday, October 18, and Tuesday, October 19, 2010, for the purpose of holding public hearings.

(2) That the committee request authorization from the House to meet on Monday, November 8, and Tuesday, November 9, 2010, for the purpose of holding public hearings in Sandy Lake, Sioux Lookout, Sudbury and Timmins.

(3) That the committee clerk, with the authorization of the Chair, post information regarding public hearings in Toronto in the Globe and Mail, the Toronto Star and L'Express for one day.

(4) That, subject to the authorization of the House, the committee clerk, in consultation with the Chair, post information regarding public hearings in Sandy Lake, Sioux Lookout, Sudbury and Timmins in a local paper of each community for one day.

(5) That the committee clerk, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and Canada NewsWire.

(6) That interested parties who wish to be considered to make an oral presentation in Toronto contact the committee clerk by 12 noon on Thursday, October 14, 2010.

(7) That groups and individuals be offered 10 minutes for their presentation. This time may include questions from the committee.

(8) That, in the event all witnesses cannot be scheduled for Toronto, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(9) That the members of the subcommittee prioritize and return the list of requests to appear by 2 p.m. on Thursday, October 14, 2010, and that the committee clerk schedule witnesses based on those prioritized lists.

(10) That, subject to the authorization of the House, interested parties who wish to be considered to make an oral presentation in Sandy Lake, Sioux Lookout, Sudbury or Timmins contact the committee clerk by 12 noon on Friday, October 29, 2010.

(11) That groups and individuals be offered 10 minutes for their presentation. This time may include questions from the committee and is subject to change depending on the number of requests to appear.

(12) That, in the event all witnesses cannot be scheduled for any of these locations, the committee clerk provide the members of the subcommittee with a list of requests to appear.

(13) That the members of the subcommittee prioritize and return the list of requests to appear by 12 noon on Monday, November 1, 2010, and that the committee clerk schedule witnesses based on those prioritized lists.

(14) That the deadline for written submissions be 5 p.m. on the final day of public hearings and that the deadline may change, subject to the authorization of the House.

(15) That the research officer provide the committee with the requested information prior to the commencement of public hearings.

(16) That the committee clerk, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's the report. I do have a number of amendments that I would like to make on behalf of the government, if I may, Chair.

The Chair (Mr. Shafiq Qaadri): You have the floor.

Mr. Rick Johnson: I would like to delete points (2), (4), (10), (11), (12), (13) and (14) and, in the case of items (10) and (11), insert a new point in both of those places.

The Chair (Mr. Shafiq Qaadri): The new points are?

Mr. Rick Johnson: The new point in (10) would be: That, for administrative purposes, amendments to the bill be filed with the clerk of the committee by 10 a.m. on Friday, October 22, 2010.

For (11), the new point would be: That the committee meet on Monday, October 25, 2010, and Tuesday—it should be the 26th—for clause-by-clause consideration of the bill.

The Chair (Mr. Shafiq Qaadri): Could you repeat that, please?

Mr. Rick Johnson: The second one was: That the committee meet on Monday, October 25, 2010, and Tuesday, October 26, 2010, for clause-by-clause consideration of the bill.

The Clerk pro tem (Mr. Trevor Day): Can I get the amendment deadline again? The amendment deadline was—

Mr. Rick Johnson: That, for administrative purposes, amendments to the bill be filed with the clerk of the committee by 10 a.m. on Friday, October 22, 2010.

The Chair (Mr. Shafiq Qaadri): Mr. Johnson, do you have this in written form for the committee?

Mr. Rick Johnson: Yes, I do.

The Chair (Mr. Shafiq Qaadri): We'd accept that.

Now I'd open the floor up for consideration before we vote. Ms. Elliott.

Mrs. Christine Elliott: I really would like to speak to these proposed amendments, because it was made clear during debate by all parties that this was a bill that really needed to travel. The views of people in the north in particular, who would find it difficult to come to Toronto for hearings, particularly those people in Sandy Lake—we really need to hear their views on this, and unless we travel, we aren't going to know. So I'm really strongly not in favour of these amendments.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones?

Ms. Sylvia Jones: Yes. Actually, it's a question. Can you tell me: What is the motivation behind the change?

Mr. Rick Johnson: There have been a number of committees travelling to the north. I would let Parliamentary Assistant Sandals expand on this.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals?

Mrs. Liz Sandals: A number of the places that have been listed as places that we visit were in fact places which the Select Committee on Mental Health and Addictions has already visited, specifically Sandy Lake, Sioux Lookout and Sudbury. One of the things which the select committee did was to identify that we need to move on this immediately. While what we heard there was extraordinarily interesting, I'm not sure that we need to take another whole committee back to rehear the same information, much of which is already recorded.

But if we may, Chair, I would like to point out that we did have delegations scheduled for 2:10. It's now 2:15, and I wonder if it would be procedurally acceptable for us, because obviously various committee members feel strongly about this: Can we defer the debate on the amendments to the subcommittee report until we've heard this afternoon's delegations? Because there does appear to be some time at the end of the afternoon today.

The Chair (Mr. Shafiq Qaadri): We'll proceed to, first of all, the commentary, and then we'll proceed to

vote on the amendments to the subcommittee report, as amended. Ms. Gélinas?

M^{me} France Gélinas: It's no surprise to anybody: I represent a riding from northern Ontario. The prescribing and dispensing models for narcotics are substantially different in the communities that I represent than the typical "you see a physician or a dentist and you go to your nearest pharmacy and you go home." We did have a bit of research. They said that not many physicians currently dispense in their practices, but those "not many" are in northern Ontario. The problems of narcotic use and abuse in northern Ontario are huge. It's devastating communities, and what we have here right now is going to help them very little. We need to change this bill to take into account the reality of health care delivery in northern Ontario, in remote Ontario and in rural Ontario, and this is not in there.

The motions silence the voice of the north. I can never stand for this. We are having a really hard time with the abuse of narcotics in northern Ontario. Here we are as legislators, and we have a chance to help those people but we're only going to help southern Ontario. We're not willing to go and listen to the needs of northern Ontario, and I cannot stand for this.

The fact that another committee travelled dealing with mental health—I agree that the select committee for mental health did go out and travel, but it was talking about mental health; it was not talking specifically about the abuse of narcotics. You would attract a completely different set of providers and a completely different set of witnesses and players if you were to go out and listen specifically to the abuse of narcotics in remote communities, in fly-in communities and in northern Ontario.

To be here listening to you taking out anything that has to do with northern Ontario is not acceptable to me.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Are there any further comments on the other side before we proceed to the vote? Ms. Elliott.

Mrs. Christine Elliott: I would just like to support what Ms. Gélinas just said. The fact that the mental health committee did travel there was for a different purpose, and I think that what we really need is the perspective of people who are providing health care in the north and their views on how this particular bill will deal with or not deal with prescription drug abuse. So I think it is essential that we go back to those communities and get the perspective from the north, because you're quite right, it's lacking if we don't travel.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. If there are no further comments for which the floor—yes; Madame Gélinas.

M^{me} France Gélinas: I have been committed to speak at a conference. I booked this 18 months ago. I'm speaking at a conference on October 25. I will not be here if you move clause-by-clause on October 25, and I would very much like to be there for clause-by-clause because I will be bringing a lot of changes to this bill so that the needs of the people of the north are heard. If I'm not

there on the 25th, there won't be anybody speaking for northern Ontario.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Again, the floor is still open for comments, but if there are none, we will be proceeding to the vote on the amendments.

I just want to confirm from members of the committee that you have in your possession the written versions of these amendments so that it's clear to all members precisely what you're voting for or against. Do all members have the written submissions? Fair enough. Once again, if there are no further comments—going once—then I'll invite the vote.

Those in favour of the amendments, as distributed and read by Mr. Johnson? Those opposed? I declare those amendments to have been carried.

We'll now proceed to the adoption of the subcommittee report, as amended. Are there any further comments or debate on that issue? Seeing none, we'll proceed, then, to the vote on the subcommittee report.

Ms. Sylvia Jones: Recorded vote.

The Chair (Mr. Shafiq Qaadri): Is it the will of the committee that the subcommittee report, as amended, be adopted?

Ayes

Dhillon, Johnson, McMeekin, Ramal, Sandals.

Nays

Elliott, Gélinas, Jones.

The Chair (Mr. Shafiq Qaadri): I declare the subcommittee report, as amended, to have been carried.

NARCOTICS SAFETY AND AWARENESS ACT, 2010 LOI DE 2010 SUR LA SÉCURITÉ ET LA SENSIBILISATION EN MATIÈRE DE STUPÉFIANTS

Consideration of Bill 101, An Act to provide for monitoring the prescribing and dispensing of certain controlled substances / Projet de loi 101, Loi prévoyant la surveillance des activités liées à la prescription et à la préparation de certaines substances désignées.

INSTITUTE OF CANADIAN JUSTICE

The Chair (Mr. Shafiq Qaadri): If there's no further comments, I will now invite our presenters to please come forward.

To begin with, we have Mr. Parker, the executive director and general counsel of the Institute of Canadian Justice, who is also going to share with us a PowerPoint presentation. Mr. Parker, and for all those presenters, you have exactly 10 minutes in which to make your presen-

tation. Any time remaining in that will be distributed evenly amongst the parties for questions and comments, and it will be enforced with military precision.

I invite you to please begin now.

Mr. Gerald Parker: Good morning, members of Parliament. My name is Gerald Parker. I am the executive director and general counsel of the Institute of Canadian Justice. I am a 25-year public policy expert as it pertains to health care and people with disabilities. I've helped European commissions, deputy Prime Ministers, ministers and the very best and brightest municipalities and provinces and countries across this good world, as well as our good private sector.

1420

I am also a chronic pain sufferer as a result of a workplace injury that I suffered when I was going through university—ironically, taking disability issues—for which I was again before this standing committee on social justice as it pertains to the Workers' Compensation Board, which is, bar none, the number one procurer-administrator of this particular suite of drugs in the country and needs to have particular attention focused upon it.

Today my focus will be to speak to a necessary bill, because over-prescription of pharmaceutical products is a problem in this country, not just narcotic drugs. Even drugs that are being used in lieu of narcotic drugs, off-label, are killing people. Do the chief of staff, the minister to the Premier of Ontario, the Minister of Health, the CPSO, the Workers' Compensation Board, my MPP, and my MP all know of this very important and very dangerous situation? I can tell you right now that there are eight concurrent investigations taking place about what I'm about to tell you, so if I don't have your attention yet, I hope I do.

Diversion in the process, cause and effect: We're talking about the effect today. Let's get real and talk about the cause—contributing undertones and process failures, the alternatives and how they're being deliberately sabotaged and compromised, catastrophic results and liabilities thereof, criminality, investigations in the other context as it pertains to this particular issue, and the specific issues as further identified and manifested in this particular bill.

A necessary bill with concerning cause and effect: Bill 101 is primarily motivated by the use and abuse of opioid drugs that plague our streets and innocent chronic pain sufferers like myself. I have had three major surgeries. I have hardware in my spine. Trust me, I'm the last guy to take a narcotics prescription, for reasons that I presented before. I live my life as a parent of three kids, a very active member of my community—right, Christine?—and as a result of that, as a professional I need not be doped or perhaps sidelined or further marginalized by drugs that would either take me out of the commission of my livelihood or my duties to my family and community. But that is indeed the case right now, and it will continue with this bill. Let's make this perfectly clear: You're focusing on the effect, not the cause.

Preferred deadly off-label pharmaceuticals are being prescribed in lieu of by doctors, by processes that have

already been determined to have \$4 billion worth of criminal fines in the US. Gabapentin—Neurontin—is the replacement for opioids for most chronic pain sufferers and is being prescribed off-label. It is killing me. The last doctor that I saw was a chief of staff at Windsor's Grace hospital. You know that name, don't you? Yes, it's a very, very notorious hospital. I showed up on government business at 2 o'clock in the morning suffering from what is now known as acute neurotoxicity of the brain because of the alternative of this style of drugs, gabapentin. Four billion dollars worth of criminal charges thus far in the US—where's Ontario? We have a centrally procured and publicly managed health care regime. Why is it \$4 billion in the United States, but our province doesn't even show up for the class action certification? Why is that? There is a very, very knowing and unfortunately deliberate conflict of interest in that situation, and I will stand by every single comment that I make here today. Increased dependency results as a matter of this.

I want you to walk through this situation with me, as an individual. Do I look like the kind of guy who sits on the corner like some kind of junkie? Seriously, do I? No, I'm not. On the CBC just two weekends ago, chronic pain is the number one form of disability—in a maturing population, absolutely. We can deal with it holistically—perhaps MS liberation treatments that cost \$1,000—as opposed to adjunctive therapies that the pharmaceutical industry would love us to keep taking every day, all day, for the rest of our lives. A thousand dollars or a million dollars—it's pretty simple to me.

Let me make this clear: I moved to Whitby, as Christine knows, four years ago. I am a person with a disability, and I do centralize my health care through my specialists because anybody who doesn't centralize their health care through their specialists and their pharmacist is simply foolish. But I, as a proactive individual, the son of an ex-police officer and a magistrate, manager of the substance abuse bureau for the Ministry of Health, I do know better.

I will tell you conclusively that when I moved to Whitby, I couldn't find a doctor. I still can't find a doctor. This is Whitby, 50 kilometres that way. Forget about the north; let's talk about 50 kilometres there. I don't mean to dismiss France—in no way—because your point is absolutely legitimate. You think we've got a problem here or in Windsor? You go up north. I've been to Windsor. I've been to the places that you folks, the recorded vote, don't want to go to. You're not doing us any service, and I would have to very seriously question why that is the case. You are here with an epidemic. People are dying before your eyes right now.

The last time I saw a doctor was on October 26, 2009. It was the chief of staff at Grace hospital. He dismissed me summarily, with one drug being presented—Neurontin, or gabapentin. I had not seen a doctor in a year and a half because I couldn't find one, and my specialist was off with breast cancer. They could have moved; they could have retired. But the College of Physicians' standard operating policy suggests—or doesn't suggest—directs that it's okay to refuse people with narcotic pre-

scriptions because they've been misinformed, misunderstood or whatever the case may be. But then when you start prescribing drugs that are also killing them, having chiefs of staff refusing to report adverse events—and then having the process backing up and trying to protect everyone in the process.

On October 26, I'd already been speaking to the Premier's chief of staff and the Minister of Health in this province. None of them, not one of them, has returned one single email or phone call. Christine, I include you in that list. That is unacceptable. You're my MPP. I almost died on your watch on February 20. You won't return my phone calls? Who will?

Next point—I'm sorry, folks. I don't mean to get my blood pressure up, but I'm telling you, when I was at—last Tuesday, October 12. I think you guys need to very much pull up the podcasts from the CBC and look at the medical errors town hall—two hours. It will tell you every solution that you need to know—two hours of medical professionals telling what the problem is. One of the major issues, to which I spoke and to which is my purpose here today, is to reveal the fact that the province of Ontario's motivations on this bill are not honourable. It is a knee-jerk reaction to the effect rather than the cause.

Opioids are the most available drugs on the street. Why? Because they're the most available drugs on the street. It is the pipeline; it is the supply. Let's not talk about the demand, because the demand is very, very clearly established in the New England Journal of Medicine dated January 8, 2009.

"Journal Highlights Concerns over Drug Industry Influence"—CBC, New England Journal of Medicine, October 25, 2002. These are the folks you're surrounding yourselves with. I'd hazard to say, probably a few of them are in this room today.

"Cut Ties Between Health Canada, Drug Companies, Grieving MP Urges." "Pray that I'm persuasive," he says. That was in an interview with CBC news and in his book, *Death by Prescription*—April 2009.

"Doctors Like Industry Perks"—yes, they are being incentivized, wined and dined, and it's called "detailing." The New England Journal of Medicine, January 8, 2009, clearly establishes that on that one drug—\$4 billion in criminal fines.

I've talked to the department of justice expert witness. The Minister of Health doesn't want to talk to them. The executive and legal counsel at the WSIB doesn't want to talk to them. The College of Physicians has sent me letters, as has the WSIB—but more tacitly, so has the ministry, refusing to talk about these issues.

People are dying, folks, right now, and this bill will further reinforce that reality.

Professional allowances and the price of generic drugs: It's a kickback. You have to understand, the causal relationship between the scientific quantification of drugs that are ever increasingly being—I'm trying to pick my words carefully.

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Mr. Parker. I would like to thank you for your presentation. I presume you have a number of slides

left. What I would suggest is that you give either an electronic or paper copy to our clerk and we can have that distributed to all the members of the committee.

Mr. Gerald Parker: So this is my two-minute warning?

The Chair (Mr. Shafiq Qaadri): I'd like to thank you for your presentation.

1430

DR. ALEXANDER FRANKLIN

The Chair (Mr. Shafiq Qaadri): I would now like to call our next individual to please come forward: Mr. Alexander Franklin.

Interjections.

Mr. Ted McMeekin:—everybody got 10 minutes to make their presentation?

The Chair (Mr. Shafiq Qaadri): It was clear to me, Mr. McMeekin.

Mr. Alexander Franklin—Dr. Alexander Franklin.

Interjection.

The Chair (Mr. Shafiq Qaadri): Yes, please come forward. Welcome. You've seen the drill, and I know you're very conversant with it. Please begin.

Dr. Alexander Franklin: Thank you, Mr. Chairman.

Mr. Chairman, members of the committee: Forty years ago I used numbered prescription pads with a non-carbon paper (NCR) copy, which was stapled in the chart. Sadly, the OHIP MRC audit gave no credit for this extra expense and enterprise. Not unreasonably, I followed the local medical norm and then used the cheap, insecure prescription pads often provided free by drug companies or pharmacies.

Two years ago, the USA took strong action against falsified prescriptions. In 2008, the following appeared in the American Medical News:

"Physicians Face Medicaid's April 1 Deadline for Tamper-proof Rx Pads

"Doctors must use pads with at least one security feature by next month and three features by Oct. 1."

By Doug Trapp, amednews staff, March 24/31, 2008—and his article has been shortened by me.

"By April, written Medicaid prescriptions must have at least one feature to prevent unauthorized copying, erasure or modification, or counterfeiting. Written prescriptions must have a feature from all three categories by Oct. 1...."

"The American College of Physicians is encouraging doctors to begin using prescription pads with three security features immediately to meet the October 1 requirements and save time later, said Neil Kirschner, PhD, ACP senior associate for regulatory and insurer affairs. Prescription pad orders can be delivered in about two weeks on average, he said...."

"The law was originally to take effect on Oct. 1, 2007, but in late September 2007 Congress delayed implementation by six months because of concerns there wasn't enough time for affected parties to understand the law's requirements, much less meet them...."

"Recommended Rx pad features

"Category one: Features to prevent unauthorized copying

"1. The word 'void' appears when the prescription is photocopied.

"2. Security back print: Words, such as 'security prescription,' printed on the prescription's back.

"3. Reverse 'Rx' or white area: 'Rx' symbol or white area that disappears when photocopied at a light setting.

"4. Watermarking...."

"Category two: Features to prevent erasure or modification of information

"1. Non-white background: Paper's background features a solid color or consistent pattern.

"2. Quantity ranges: Boxes that can be checked by the physician to indicate the number of doses.

"3. Refill indicator: Indicates the number of refills allowed.

"4. Rx limit: A line specifying the number of prescriptions allowed for different drugs on the same form.

"5. Quantity and refill borders: For EMRs, quantity or refill limits appear between asterisks; quantity or refill limits also could be spelled out.

"6. Chemically reactive paper: Exposure to solvents, oxidants, acids or alkalis will leave a visible mark.

"7. Paper toner fuser: Special toner bonds tightly to paper, making modification difficult.

"Category three: Features to prevent counterfeiting

"1. Features list: A complete list of security features on the paper (highly recommended).

"2. Serial number: Unique number for each prescription, which may or may not be sequential, but should be reported to the state to be valid.

"3. Batch number: For states with approved vendors (in some states only police-cleared printers can supply prescription pads) a number identifying each batch of prescriptions.

"4. Encoding techniques: Bar codes used to encode a serial number.

"5. Logos.

"6. Metal strip: A strip of metal embedded in the paper."

The source is the National Council for Prescription Drug Programs. Today, the cost of prescription pads is approximately C\$260 for 5,000. In a busy practice, I estimate about \$2 a day per doctor for pads with the 10 security features. The Web link is cited below: The American Medical Association on Medicaid tamper-resistant prescription pad rules.

There's no need for many physicians to prescribe narcotics—for example, dermatologists, psychiatrists and public health doctors. In Michigan, a physician can choose to have or not to have a narcotics licence, which is separate from the licence to practise medicine.

Some Ontario GPs now have signs on their doors saying "No narcotics prescribed." This avoids the physical and verbal threats of people demanding narcotics. At present, the Ontario College of Physicians and Surgeons' government-based confidentiality laws prohibit doctors from notifying the local police drug squad about persistent illegal narcotics seekers.

We would be glad to discuss this matter further through email at scandamed7@gmail.com. The submission is complete. My name and honorifics are at the bottom of the page. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Franklin. We have about a minute or so per side, beginning with the PC Party.

Mrs. Christine Elliott: Thank you very much, Dr. Franklin, for your brief. I'm just wondering, in terms of the legislation, are you suggesting that these features should be instead of or in addition to the way that—

Dr. Alexander Franklin: In addition to.

Mrs. Christine Elliott: In addition to. Okay.

Dr. Alexander Franklin: Considered. Let's put it this way: Considered.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

Mme. France Gélinas: It was most interesting, especially your opening comment that you were doing it 40 years ago and certainly did not get the support needed to continue quality care.

What percentage of the abuse out there do you see related to forging prescriptions? Would you know?

Dr. Alexander Franklin: No idea.

Mme. France Gélinas: We know that some of it happens, but we can't quantify it?

Dr. Alexander Franklin: I couldn't, but I'm sure that with research—one could look into medical-legal Quicklaw, but I don't know at the moment.

Mme. France Gélinas: Okay.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals?

Mrs. Liz Sandals: Thank you, sir. That was a very interesting presentation. I was just trying to figure out from the articles—because the one headline talks about one security feature and then three features—the status of all these features now. Are all the features required or is it still sort of a “choose three”? I guess my second question would be, if you had to choose three, which are the most important three?

Dr. Alexander Franklin: Well, ma'am, as you know, each of the States have their own regulations. It's very interesting to—because of the time limit, I would have liked to produce appendices of all the States. Some of them have standard prescription forms. I'm sure your research department will be able to provide them. They're very interesting. Some of the prescription forms have quite a firm template.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Dr. Franklin. Once again, you are welcome to communicate to the members of the committee in writing through the clerk and through the Chair.

1440

ONTARIO COLLEGE OF FAMILY PHYSICIANS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Ms. Kasperski, chief executive officer of the Ontario College of Family

Physicians, who does not need to be reminded of the drill. I'd invite you to please begin.

Ms. Jan Kasperski: As you know, the Ontario College of Family Physicians represents about 9,500 family physicians in this province. Our members provide care in every community in Ontario—north, south, east and west—and in every sector of the health care system. We see patients in our offices. We're the physicians who work in your emerg departments and walk-in clinics. We look after patients in in-patient beds, long-term-care facilities and patients' own homes. We're the family doctors who deliver babies. We assist in the operating rooms and in day surgery units. We're the palliative care physicians. We're the GP psychotherapists. We're also the methadone prescribers. On a daily basis, we see people who are in pain, both physical and emotional, and we deal with the addictions that plague so many of our patients, are so harmful to their families and are so costly to society in general.

We see the suffering when patients do not have their pain adequately managed. We see the suffering when we try to withdraw them from narcotics. We see the suffering of patients and their families when addictions take over their lives.

On behalf of the Ontario College of Family Physicians, I'd like to formally commend the work of the Select Committee on Mental Health and Addictions. Having all three parties work so well together is an accomplishment in and of itself, but the work was absolutely spectacular. We were so pleased with the report. It's very timely, and it's a solid road map for improving a sector of the health care system that is woefully in need of resources.

In keeping with the Excellent Care for All Act, it's a plan to improve and integrate services with the rest of the health care system to ensure that patients do not fall through the cracks. We're very pleased to see that the Ministry of Health and Long-Term Care, led by the Honourable Deb Matthews, acted so quickly on one of the recommendations of this report by crafting and submitting to legislation Bill 101, the Narcotics Safety and Awareness Act.

From a historical perspective, pain management has been a problematic area of practice for many years. In the pre-oxycodone era, physicians knew that narcotics were highly addictive and were very reluctant to order them. In addition, the powerful ones were given by injection or by intravenous routes. By and large, patients needed to be in hospital to receive these medications from our nursing staff. Unfortunately, our patients with chronic pain disorders suffered needlessly during this period.

Then, along came opioids with proof from the pharmaceutical industry that they were non-addictive, safe and easy to use. They revolutionized the field of pain management. They allowed us to discharge patients quicker following surgery since they gave the same level of pain relief as the drugs that we have previously given intravenously or by injection. The whole field of day surgery opened up since we could send our patients home

with their post-op pain well managed. Dentists started using it.

Chronic pain was well managed by a class of pharmaceuticals that truly seemed like miracle drugs. But these miracle drugs had a hidden underbelly—they were addictive, and they were highly addictive. Once on the drug, we had a hard time helping to wean our patients off opioids. People using street drugs began to recognize the power of opioids to create a high, especially when crushed and smoked or injected. Over 50% of people being treated in methadone clinics today are addicted to opioids. It's rapidly becoming the drug of choice on the streets.

A whole drug diversion industry has evolved around prescription drugs being sold, and the drugs themselves can sell for \$40 a pill in our southern communities, but when you go up north, it's \$120 per pill. You can feed an amazing number of people on these reserves with that kind of money being exchanged. As a result of drug diversion, many emergency departments, walk-in clinics and family offices are now refusing to provide prescriptions for pain management. People without family doctors are suffering needlessly or are finding ways to obtain pain relief on the streets, and the cycle continues: poor pain management, addictions and more drug recycling.

Our physicians have been caught in the middle. They truly want to relieve the suffering of their patients, and we need sustainability of the system. It requires us, therefore, to use our hospital resources more effectively by finding even better ways of decreasing use of our high-cost beds.

Family physicians faced with a patient who needs pain relief to get on with their life feel compelled to sign that prescription pad; however, when they begin to realize that the patient has become addicted to the drug that has provided them with acute or chronic pain relief, there are few services available to help them. A life spent going to a methadone clinic is really not the answer.

The collective set of recommendations by the select committee needs to be implemented, and Bill 101 is a first step in addressing some of the problems facing family doctors and their patients.

We believe that this bill will encourage research into safer drugs and alternative methods of pain relief to ensure that we do not go back to the bad old days when pain was simply poorly managed. We believe that it will stimulate the education of physicians, from medical students to our residents to practising physicians, on the proper use of narcotics and on how to better manage addictions. We believe that it will provide access to a wider range of medications and therapies that will help us to ensure that our patients receive the relief from pain that they need and deserve. We believe that tracking prescriptions so that we can reduce and, hopefully, eliminate drug diversion will take place as a result of this bill. Lastly, we believe that identifying and providing support for those addiction treatment modalities that are proven to be effective in helping patients become drug-free will be a key part of this particular bill.

As part of your package, I have included information about two of the nationally and internationally recognized programs developed and managed by the Ontario College of Family Physicians, thanks to the support of the Ministry of Health and Long-Term Care. There's an educational program called Medical Mentoring for Addictions and Pain and our Collaborative Mental Healthcare Network. Both programs are providing family doctors with the knowledge, the skills and the confidence to provide care for their patients who suffer from both physical and emotional pain and addiction. Bill 101 is needed to help them do an even better job.

As we look towards improving the bill even further, we know that we will end up, at the end of the day, with supports in this direction.

In summary, we have far too many people's lives, and those of their families, that have been disrupted or ended by the inappropriate use of narcotics. Bill 101 provides the framework for supporting appropriate prescribing of narcotics while reducing the unintended consequences: addictions and drug diversion. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. About 20 seconds or so per side. Madame Gélinas.

M^{me} France Gélinas: Just quickly, I agree with you that we need to look at what we do with all those people who already have an addiction. Any quick answer to this?

Ms. Jan Kasperski: There's no quick answer. I think the recommendations that came through from the select committee give us a road map to move forward and need to be done. This is a very great first step, but it's not what's needed.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: I'm just wondering if there are any specific changes that you're looking for with respect to educating family physicians around appropriate prescription practices.

Ms. Jan Kasperski: I think that as we look towards our medical schools, both our med students as well as our family medicine residents are saying very clearly that a strong curriculum in pain management is absolutely needed. Our practising family physicians—

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. I'm pleased that you raised the importance of the treatment option. It needs to be there as well.

Ms. Jan Kasperski: Absolutely.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kasperski, for your deputation on behalf of the Ontario College of Family Physicians.

MR. BILL ROBINSON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Mr. Bill Robinson. Welcome. You've seen the drill: 10 minutes in which to make your presentation. I invite you to please begin now.

Mr. Bill Robinson: I would like to thank the Standing Committee on Social Policy for allowing me to appear here today and give my views on Bill 101, which now stands before you.

1450

Nine years ago this Christmas, both my brother and I discovered that we had cancer. After three years of treatment, I am now cancer-free. My brother underwent six years of treatment and died from his illness three years ago. In his case, the cancer had metastasized to his bones and his death was long and painful. Without the use of opiates such as hydromorphone and OxyContin, his final months would have been unbearable. The medical staff at the cancer ward constantly monitored and adjusted the dosage to keep the pain at bay. They were experts in pain control. The use of opiates, properly prescribed, monitored and administered as needed, is a wonderful thing, as chronic pain takes away all quality of life.

Item 1 of the government's strategy to provide for access to narcotics and other monitored drugs when they are medically appropriate to treat pain is imperative. Physicians cannot feel your pain. They are therefore compelled to make a judgment call or trust what you are telling them in order to decide on a course of action to alleviate that pain. But far too many patients are becoming addicted to prescribed opiates. Medical professionals need to be better educated about pain control and addiction as they apply to treatment with these strong painkillers. This would encourage more appropriate prescribing habits and hopefully result in fewer addictions.

Item 2 of the government's strategy is to reduce the abuse and misuse of narcotics through a proposed monitoring database and proposed legislation.

In May of this year, my son James died of an overdose of OxyContin. He was 24 years old. I cannot begin to describe the horror and anguish of finding my youngest son dead on the floor of his room. This is an image seared in my soul that I will carry with me every day of my life.

Just a few months ago, four months after his death, James's friend and the love of his life also died of an overdose of OxyContin. She was just 21.

I could spend the next 10 minutes talking about what a wonderful person my son was and the events in his life that led to this tragic event, but that is not my purpose here today. Both my wife and I believe that it is important for us to speak out and raise awareness of this problem in our community.

When I visit my family doctor and am given a prescription, the doctor manually enters the information into his family practice database to keep a record and to allow other physicians in the practice to share the records if necessary. He then prints a copy of the prescription and gives it to me. I then take that prescription to our local pharmacy, where they manually enter the information into their separate database to keep a record of it before dispensing the prescription. Ontario's narcotics strategy suggests that three copies of the prescription be made so

that the third copy is forwarded to the governing body, where it is one again manually entered into a database for monitoring purposes.

The problem that I see here is that three separate individuals are manually entering information into three separate databases, and none of them are connected. By the time all of this is done, drug dealers have already visited three other doctors with the same complaints of pain, they have made copies of those three prescriptions, and have visited several different pharmacies. Shortly afterwards, they are on the street selling hundreds of OxyContin tablets for thousands of dollars.

I suggest that we must go beyond monitoring opiate drugs and start a database accessible to both doctors and pharmacists in order to control the dispensing of them. Surely, we could develop a common database wherein the information only has to be entered once and all concerned can access it in real time.

The physician could enter the patient's OHIP number into the database to ensure that no other physician has prescribed an opiate to this patient. The prescribing physician could then enter the information manually into a database and print the prescription. This should be the only time that it is necessary to manually enter the information.

The dispensing pharmacist looks up the OHIP number and the physician's prescription number in the database. The database will confirm that the prescription is valid, that only one physician has prescribed this opiate and that no other pharmacy has already dispensed it. The governing body does not have to do anything but monitor it.

Item 3 of the government's strategy is to support treatment for and reduce narcotics-related addictions and deaths. The ministry does this by currently providing funding for a number of substance abuse treatment programs which they feel are easily accessed. All an addict has to do is call a helpline or click on the appropriate website and they can get all the help they need.

That isn't going to happen. Very often, the programs do not match the needs. In most cases, addicts are not able or willing to help themselves. An addict's only concern is getting more drugs to satisfy that craving. They will lie, cheat, steal, prostitute themselves or do anything else that they have to do to satisfy that addiction. This is their new life. This is their reality.

The reality is that there are very few easily accessed places in Ontario for an addict to go to for help, and without help, death, accidental or not, is a strong possibility.

There are some in our community who feel that drug addicts and those with mental health problems are horrible people who come from somewhere else and should be shunned. They do not want clinics in their backyards because it would attract what they feel are dangerous criminals. The reality is that these addicts are their sons and daughters, brothers and sisters, mothers and fathers.

OxyContin does not discriminate by age, gender or ethnicity. The reality is that OxyContin is a highly addictive opiate which has claimed patients who are both

prescribed this narcotic legally and those who use it illegally. It is also a drug with some of the strongest addictive qualities, and for many, there is no real cure.

The reality is that OxyContin sold illegally generates millions and millions of dollars, and drug dealers will do anything to attract new clients and keep them. Parents with schoolchildren must be made aware of what lengths a dealer will go to to hook these young people on drugs. They must also learn to recognize the signs of drug use so that they can get involved early.

The drug industry, both the legal and the illegal one, is the most successful industry in the world. The main objective of the industries that manufacture these drugs is to sell more. This means that they are part of the problem. I believe that we must approach these industries and make them part of the solution.

We must find a way to keep prescribed narcotics from getting into the hands of drug dealers, and to do that, we must do more than just monitor the situation.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Robinson. About 30 seconds or so: Mr. McMeekin.

Mr. Ted McMeekin: Mr. Robinson, Ernest Hemingway in his book *A Farewell to Arms* wrote that the world breaks all of us and then some of us become stronger in the places that are broken. I just want to say to you, sir, thank you for having the courage to share your story. It has touched a lot of us and is driving much of what we're trying to do and what we're trying to improve on doing. Sir, thank you.

Mr. Bill Robinson: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Elliott.

Mrs. Christine Elliott: Thank you, Mr. Robinson. I'd also like to thank you very much for coming forward with your personal stories. I'm very sorry for your losses.

You have raised some really important points, one being that we can't just monitor the situation. We also have to provide treatment and help to people. That's why it's our hope that this select committee's entire 23 recommendations—I'm not sure if you've had a chance to look at them. We do offer some solutions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Ms. Gélinas.

M^{me} France Gélinas: I will continue. The select committee for mental health did make 23 recommendations in its report. They certainly deal with some of the issues: databases that don't talk to one another, and industry being part of the problem. It is bigger than just—what this bill does is bring in a new database, entry of data into a database. It's not going to solve the problem. You understand that it's way bigger, and so do we. Many more steps need to be taken.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. And once again, on behalf of the committee, Mr. Robinson, we all thank you for sharing your very poignant stories.

Mr. Bill Robinson: Thank you.

1500

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Messrs. Mandel and Gerace of the College of Physicians and Surgeons of Ontario, accompanied by Ms. White and Ms. Verity, counsel and director of policy and communications. Welcome. I'd invite you to please identify yourselves as you're about to speak. Please begin.

Dr. Jack Mandel: Thank you for this opportunity to appear before the committee. I'm Jack Mandel, president of the college. I'm a family physician practising in Toronto. With me today are Rocco Gerace, our registrar; Vicki White, counsel; and Louise Verity, director of policy and communications.

Ontario is in the midst of a public health crisis, a crisis stemming from the inappropriate prescribing, dispensing and illicit use of opioids and other narcotics. OxyContin deaths have increased by 240% between 2002 and 2006. This public health crisis requires immediate action, and Bill 101 is a good start. The broader narcotics strategy announced by the Minister of Health and Long-Term Care is also a positive move forward.

Over the past year, the college has worked with a number of organizations and experts to produce *Avoiding Abuse, Achieving a Balance: Tackling the Opioid Public Health Crisis*. This report contains 31 recommendations, recommendations that we feel should be seriously considered.

We'd also like to take this opportunity to recognize the members and contributors to the report of the Select Committee on Mental Health and Addictions. It's a very thoughtful report.

The college supports the general intent of the bill. It's broadly consistent with a recommendation in our report that government make all opioid prescription information available to all prescribers and dispensers. The college also supports the provision in the bill that would require prescribers to affix their college registration number on prescriptions.

One limitation of the proposed system is that narcotics prescription information will not be readily available to physicians and other prescribers. In order to improve prescribing at the point of care, prescribers need access to a patient's narcotics history before prescribing. For this reason, we believe that eHealth Ontario and the government of Ontario should move quickly to develop and implement the planned drug information system. A drug information system will help prescribers improve clinical outcomes by providing access to comprehensive medication profiles and give them the ability to check for allergies, drug interactions and accurate dosages.

While we support the direction of Bill 101, we believe it can be improved with amendments that would accomplish three objectives.

(1) Recognizing the role of regulatory colleges: It's the role of the college to regulate physician practise,

including prescribing in the public interest, yet there is no mention of the role of regulatory colleges in the bill or the circumstances in which information will be shared. This is certainly a departure from what exists in other provinces. Information gathered under Bill 101 will be limited to data about the volume, quantity and type of drugs prescribed by physicians. It will not gather information on the nature of the illnesses treated by any particular physician nor the reasons why one prescriber may have an unusually high volume of prescriptions.

The CPSO is the body that has the ability to evaluate prescribing in the context of that physician's clinical practice, identify and then address any problems, ideally using an educational approach. It's crucial that the link between the ministry program and the CPSO's role be clarified to ensure the information can lead to meaningful observations about physicians' practices and, where necessary, to ensure that the body charged with regulating the medical profession in the public interest has all the tools required to achieve this goal.

(2) Ensuring information-sharing with regulatory health colleges: The collection of narcotics information by the new system generates new responsibilities for the Ministry of Health. In order to make the best use of the data collected through the program, we believe that both the college and the government should be entitled to access the prescribing information. For example, where the college is investigating a member's prescribing, consolidated information about the member's prescribing would be critical for determining the best regulatory outcome. Similarly, where the government has concerns about a member's prescribing, it should notify the college so that further analysis can occur.

It is our view that this type of sharing of information is permitted under the current legislation. However, to ensure that it actually occurs, we recommend explicit language in the legislation that clarifies it is the intention of the government to make this information available to regulatory colleges.

To ensure that regulatory colleges receive information at appropriate times, we recommend that an additional section be added to the legislation, subsection 5(6), that would trigger a mandatory sharing of information whenever the minister or executive officer has concerns about a member's prescribing or dispensing activity.

Similarly, in order for the regulatory colleges to work effectively and cohesively with the ministry and to prevent duplication of efforts, amendments may need to be made to the Regulated Health Professions Act to permit the colleges to share information with the ministry. Without this amendment, the CPSO could find itself in a situation similar to that it currently faces when it receives information from hospitals: Although the college is entitled to receive and act upon the information, the legislation imposes barriers on its ability to communicate the results back to the body that provided it with the information.

(3) Allowing comparable access to system information for prescribers and dispensers: There should be com-

parable access to system information for prescribers and dispensers. Currently, the legislation permits disclosure to dispensers if they are determining whether to dispense a monitored drug or after they have dispensed a monitored drug. Disclosure to prescribers is permitted only after a prescriber has prescribed a monitored drug. Physicians need to have access to system information to ensure they can make informed prescribing decisions.

While the technology may not yet exist to permit disclosure of this information in real time to physicians, the legislation should permit such disclosure. The technology will soon exist, and the authority to disclose real-time information to prescribers should be established.

We recommend that clause 5(5)(a) be amended as illustrated in our written submission before you. In the meantime, it would be helpful for prescribers to have access to information about narcotics history via a call centre or other such mechanism.

In summary, the college supports the government's decision to take action. Our response to Bill 101 and the recommendations contained in our report, *Tackling the Opioid Public Health Crisis*, are offered in the spirit of working with government and other partners to alleviate this public health crisis.

We appreciate the opportunity to appear before you and we would be pleased to answer questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Mandel. We have a minute or so per side, beginning with Ms. Elliott.

Mrs. Christine Elliott: Thank you very much, Dr. Mandel, for appearing before the committee and for making the suggested amendments as you have. Is there anything else that you would like us to consider as we move forward with this? Will you be submitting more formal amendments to us to consider for clause-by-clause, or just in the format that we have them here now?

Ms. Louise Verity: We've really identified three areas where we're seeking amendments. In two, we've been precise in terms of the wording that we're seeking; in the third, not so much so. Rather, we've provided examples of what exists in other provinces. But we'd certainly be happy to continue talking about opportunities that may exist.

Mrs. Christine Elliott: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Madame G  linas?

M^{me} France G  linas: If you could expand a little bit as to—you want to mention the role of the regulatory college in the bill for circumstances where information will be shared. I understand that this has been an issue. If you could either give an example or expand.

Dr. Rocco Gerace: What we know in other provinces where it has been successful is that the regulatory colleges have access to prescribing and dispensing information. It would seem to us to be leading to silos, if there is sequestered information that one body has that the other body doesn't have. Ideally, it would be helpful for the college to have access to the same information that the ministry would have, in terms of these drugs that are

being prescribed. In the absence of that, there has to be, we think, free sharing of information.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: I would just echo what the other parties have said: It would be quite helpful, if you've got more specific suggestions, if you could share those with us so we can understand what you're thinking, because you've made some really interesting, positive suggestions that it would be useful to be able to explore. So if you have anything more specific, please let us know.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you, Dr. Gerace and Dr. Mandel, and your colleagues Ms. White and Ms. Verity, for your deputation and presence on behalf of the CPSO.

1510

DR. PHILIP BERGER

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Dr. Philip Berger. Welcome, and I invite you to please begin.

Dr. Philip Berger: My name is Philip Berger, and I am a family physician who has treated addicts since I started my medical practice in 1978. Since 1991, I have prescribed methadone, which is the gold standard treatment for narcotic addicts. I sat on the College of Physicians and Surgeons of Ontario methadone committee from 1999 to 2002. I am chief of the St. Michael's Hospital department of family and community medicine and an associate professor in the University of Toronto faculty of medicine. In my capacity as an educator, over the years I have talked and lectured to many students on addiction.

I support Bill 101 because it addresses poor narcotic prescribing by physicians and will hopefully curb illegal or unjustified use of narcotics by Ontario residents. The bill also provides for clear, legal and non-discriminatory authority to confront the misuse of narcotics in Ontario. And finally, the bill does not single out or target only one group that uses narcotics, which is the current situation for patients treated with methadone for narcotic dependency.

I will speak about Ontario's methadone program administered by the College of Physicians and Surgeons of Ontario under a contract with the Ministry of Health. I will also inform you of a critical governance matter raised by a decision issued last year by the Information and Privacy Commissioner of Ontario.

Methadone is an orally administered narcotic, usually mixed with orange juice, and has been used as a treatment for narcotic dependency since the mid-1960s. It is legally approved in Canada for this purpose and is considered a lifetime treatment. Its availability has been shown to reduce death rates, HIV and hepatitis incidence and crime rates.

Since 1996, methadone treatment has been managed by the college after the federal government, which officially issues methadone prescribing licences to doctors, delegated and downloaded both the responsibility and the

cost of methadone administration to the province. The federal government did so in the absence of any contract with the government of Ontario.

As of September 20, 2010, almost 30,000 narcotic-dependent patients in Ontario were being actively treated with methadone by 309 physicians. The College of Physicians and Surgeons methadone program is administered through rigid, arbitrary, discriminatory and intrusive rules which shackle patients to the health care system and preclude any professional judgment by their physicians. For example, at the very best, patients must attend their pharmacy every week and see their doctor every month for the rest of their lives. They must provide urine samples witnessed by lab technicians, and, as a condition of receiving treatment, authorize unfettered disclosure of their personal health information to anybody in the health care system.

Unlike any other doctors, physician prescribers of methadone undergo inquisitorial audits every one to three years, which drives some doctors out of the field. In rural and northern Ontario, where drugstores are closed on Sundays, the college prohibits take-home doses for patients who normally require a daily dose of methadone dispensed at their drugstore. No provision is made for these patients to receive methadone, thereby promoting illegal drug use by those patients on Sundays.

None of these rules apply to other narcotics such as OxyContin. Under the college regime, the death rates of patients in the methadone program have actually increased since the college took over in 1996. Further, 50% of patients leave the program within two years of enrolment, a miserably low retention rate. These ex-patients become the very people who seek narcotics on the streets. Beyond the over half-million dollars annually provided to the college by the ministry for the program, OHIP and other costs are in the tens of millions of dollars each year.

The unnatural conditions of the college methadone program have contributed to the very narcotic epidemic the program was intended to remedy. Thousands of addicts have left the college methadone program, left without treatment, impelled to acquire narcotics illegally, placing them and others at high risk of illness and death.

The college should change its practices to reflect normal medical standards. Patients must be able to receive treatment no matter where they live in Ontario; otherwise, the beneficial effects of Bill 101 will be greatly diminished.

And speaking of normal circumstances, the Information and Privacy Commissioner of Ontario made an astonishing decision last year, allowing the college, and in fact all regulatory bodies established by the Regulated Health Professions Act, to collect personal health information and establish patient registries without patient consent. The colleges can collect this information, provided that such action relates to the objects and purpose of the regulatory body, which, in the case of the College of Physicians and Surgeons of Ontario, is "to serve and protect the public." It does not matter to the Information

and Privacy Commissioner whether the object or purpose is actually met. In the case of the college, the effectiveness or outcome of the methadone program is irrelevant to the IPC, as it granted unprecedented power to the college to engage in a massive privacy breach and constitute a patient registry.

The alleged purpose of the college's registry is to prevent double-doctoring, yet not a single patient in the college's methadone program has attempted to secure methadone from more than one doctor in the program. Because the college does not keep lists of patients using methadone for pain or using other narcotics, such as OxyContin, the college has no idea if methadone program patients are double-doctoring outside the program. The college's registry provides no protection to the public.

Finally, the college maintains patient names for 10 years after they are off the program, including those patients who have died. Perhaps the Information and Privacy Commissioner could explain how the public is protected by keeping the names of dead addicts on the college registry for 10 years.

Nonetheless, according to the IPC, the college does not require legislative authority such as that contained in Bill 101 to keep a registry of addicts using methadone for treatment or to establish registries of any other groups of patients.

The RHPA was created to license the acts and conduct of physicians. The college, with IPC sanction, is using this power to collect and maintain patient information outside of the codified protection enunciated in the Personal Health Information Protection Act and now outside Bill 101. It is further using such information to regulate patient conduct and deny treatment to patients who do not agree to the college's conditions of treatment.

The effect of the IPC sanction is to bypass the democratic process of the cabinet and Legislature in making decisions on privacy matters. Colleges are now allowed to invade privacy under cover of public interest with zero accountability. No patient record in Ontario is safe from such unwarranted and intrusive regulatory scrutiny.

I am relieved that through Bill 101 the Legislature is asserting its rightful position as the only entity that can authorize the mass disclosure of personal health information and the establishment of patient registries, if it deems fit. The IPC should pay close attention and cease granting unprecedented powers of intrusion to regulatory bodies in the absence of any express statutory or legislative authority to do so.

It is essential that Bill 101 pass to achieve the objectives I described earlier and to prevent the misuse of authority that has crept up in the bill's absence. Thank you for so patiently listening to me.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Berger. With Ms. Gélinas, about 30 seconds or so.

M^{me} France Gélinas: So the conditions for treatment with methadone are not set by the federal government, they're set by the college?

Dr. Philip Berger: They're set by the college.

M^{me} France Gélinas: Are they the same in every province?

Dr. Philip Berger: No.

M^{me} France Gélinas: Which one's the best?

Dr. Philip Berger: I couldn't tell you which one's the best. I don't think any of them rank as particularly helpful.

M^{me} France Gélinas: Okay. Any jurisdiction that does better than us?

Dr. Philip Berger: I don't think achieving a 50% retention rate and an increased death rate is doing better in any fashion, to be quite frank.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: That was interesting. It happened to click with a personal experience I had in Guelph last week, talking to a young man who was trying to move into methadone treatment.

With respect to Bill 101, are there any changes you want to see in Bill 101 or are you satisfied with the bill as it's currently framed?

Dr. Philip Berger: Ironically, I agree with the previous presenters about providing real-time information to physicians, pharmacists or the CPSO so that illicit prescriptions can be frozen at the point of access before it gets on to the streets.

Mrs. Liz Sandals: So this is the pre-prescribing access to information?

Dr. Philip Berger: Pre-dispensing, yes.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. I don't have any questions.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Dr. Berger, for your deputation and submission today.

ONTARIO PHARMACISTS' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Mr. Malek of the Ontario Pharmacists' Association. Welcome and I invite you to please begin.

1520

Mr. Allan Malek: Good afternoon. My name is Allan Malek. I am the vice-president of professional affairs with the Ontario Pharmacists' Association. I am also a part A pharmacist registered with the Ontario College of Pharmacists, providing direct patient care to patients in a community pharmacy in the GTA.

The Ontario Pharmacists' Association is a voluntary organization representing the professional interests of Ontario's more than 12,000 pharmacists, who work in a wide variety of practice locations but primarily in the community and hospital settings. Our mission is to support, promote and advance the professional practice of pharmacy for improved health outcomes and the general well-being of all Ontarians.

Today, I bring to this committee the perspectives of OPA and its members on Bill 101, the Narcotics Safety

and Awareness Act. I would like to begin by saying that the OPA is supportive of this bill. We see drug abuse and diversion, along with the over-prescribing and dispensing of narcotics and controlled substances, as a blight on society as a whole. If left unchecked, it will continue to worsen.

Our members have conveyed to us that not only has the number of legitimate prescriptions for opiates steadily increased, so too has the number of cases of forged or altered prescriptions. While oxycodone seems to be the ingredient most often cited within the media, pharmacists are reporting a greater propensity for the prescribing of codeine-containing and other narcotic preparations.

Bill 101, as introduced on September 15, is a good first step. From the perspective of our members, who are doing their best in their role as gatekeepers to prescription medications, any first step means progress. The bill seeks to employ the Health Network System, or the HNS, as a means to track the prescribing and dispensing of narcotics and controlled substances to any Ontarian with an OHIP card. Currently, pharmacists must rely on word of mouth to identify and alert each other to suspicious patient activities and irregular prescribing habits.

While prescription drug monitoring by any government has raised some concerns about its impact on patient confidentiality, OPA agrees that the risk to general public health and safety is sufficiently high to warrant such actions.

The safety of pharmacists and technicians is also of huge concern. I can speak personally to many situations in my 22 years as a pharmacist where my own safety was at significant risk. I have also spoken with physicians who were threatened or coerced into writing narcotic prescriptions. I have seen more than my fair share of forged and altered prescriptions, which typically follow a pattern in terms of how they are presented to the pharmacy staff.

It's come to a point where certain shifts at certain locations have become inherently dangerous for pharmacists and technicians. Late at night, we often follow stereotypes and gut instincts to determine the veracity of a narcotic prescription, and finding a physician after hours to validate that prescription is just not going to happen. At the end of the day, gut instincts often become irrelevant when the pharmacist honestly believes his or her health and safety are in question.

What Bill 101 offers is information not only to the ministry but also to prescribers and to pharmacists. This information is critical. In our view, ePrescribing and a drug information system cannot come soon enough.

But while we welcome this information, we also recognize its limitations. For individuals who legitimately require the use of narcotics and controlled substances, the system will track their information and may, in fact, assist in understanding prescribing behaviours. For individuals who are abusing drugs and the system, the tracking process may make it harder for them to obtain their narcotics.

Our concern with tracking is that it's only a partial solution. According to front-line pharmacists, it may not

eliminate the intimidation tactics drug abusers employ, and our members are concerned that the pharmacy break-ins and armed holdups will continue.

In spite of these limitations, we still support this bill but also believe it doesn't go far enough. Minister Matthews, as quoted in Hansard on September 27, indicated that the database is but one element of a broader strategy. There was mention of a public awareness campaign, including a youth component. She spoke of efforts to move forward with more effective treatments for addictions. We hope this includes a reconsideration of the current methadone program as well as alternatives such as Suboxone.

The Ontario Pharmacists' Association is encouraged by the minister's remarks, but would like more detail on the bigger picture. Pharmacists can and want to do more, but need details on the broader strategy. As health care professionals, pharmacists, along with others, have the responsibility to educate patients, caregivers, the public and each other.

Chronic, non-cancer pain is multi-faceted and requires a more concerted effort by all stakeholders: health care providers, patients, caregivers and all levels of government. We therefore urge the government to proceed without delay on the additional elements of the narcotics strategy and to include OPA in its discussions.

The Ontario Pharmacists' Association is pleased to be one of the contributing organizations driving the Ontario community workshops for improved opioid use. These workshops aim to provide physicians and pharmacists with new knowledge and tools from the recently released Canadian Guideline for Safe and Effective Use of Opioids for Chronic Non-Cancer Pain. At the same time, OPA is working in partnership with the Ontario Medical Association on pharmacist-physician focus groups that aim to foster improved communications between the professions. Equipped with these new resources and tools from the community workshops, physicians and pharmacists will see greater efficiencies in interprofessional communications, which will be one of the cornerstones in a consolidated approach to optimal prescribing and dispensing.

Finally, with the dramatic increases in armed robberies and break-ins, OPA has prepared pharmacists with tools and strategies for staying safe and secure in the pharmacy. While theft and diversion of product are very serious matters, protection of health human resources and pharmacists' patients is a top priority.

Once again, I would like to convey the support by OPA and its members of Bill 101. We look forward to the increased flow of information it promises to deliver. However, we urge this committee to remind the government of the additional work that will be required. This involves the provision of necessary support for health professionals in their efforts to educate their patients and themselves, and of course, it requires increased resources to ensure the safety and security of health professionals in the course of their important work for Ontarians.

Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Malek. About a minute or so per side, beginning with Ms. Sandals—actually, 45 seconds, but go ahead.

Mrs. Liz Sandals: You talked about appropriate support and tools for pharmacists, and you mentioned the one series of education workshops that I take it you're doing jointly with the physicians. Is there anything else that you'd specifically like to mention in that area?

Mr. Allan Malek: I think it's just a matter of just providing—whether it's financial support or assistance from ministry resources to help facilitate this process, to help facilitate the sharing of information. This database will certainly go a long way, but it's, as I said, just the tip of the iceberg.

Mrs. Liz Sandals: Okay, thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Ms. Elliott?

Mrs. Christine Elliott: Thank you for pointing that out, that it is just a first step. I guess that pharmacists, being on the front line, are the ones who sort of bear the brunt of the increase in crime and break-ins.

Have you noticed this within the last couple of years or just the last year? Could you give us some idea of how much it's escalated, and over what time period?

Mr. Allan Malek: I'm sorry, I don't have any specific numbers. A lot of this is anecdotal, but the anecdotal reports are astounding. The challenge is getting formal documentation of the numbers. The unfortunate thing is that a lot of the forgeries—and even getting to the break-ins—are dependent on how much of that information is actually reported to the regulatory bodies. There are no guidelines and no direction to report that type of information at this time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Madame Gélinas?

M^{me} France Gélinas: You mentioned that right now, pharmacists rely on word of mouth to identify and alert each other of suspicious patients or prescribers. What would you do if you knew that a physician in your community, or a dentist or whoever, was prescribing narcotics illegally?

Mr. Allan Malek: Often it's based on suspicion, so our first course of action, typically, is to contact the College of Physicians and Surgeons to register a concern and to initiate an investigation. If it is a blatant example, then often the law enforcement agencies are contacted.

M^{me} France Gélinas: When you contact the college, are you satisfied with the follow-up that they offer?

The Chair (Mr. Shafiq Qaadri): I need to intervene there, Madame Gélinas.

I'd like to thank you, Mr. Malek, for your presentation and deputation on behalf of the OPA, the Ontario Pharmacists' Association.

MS. PEGGI DeGROOTE

The Chair (Mr. Shafiq Qaadri): Now I invite our next presenter to please come forward: Ms. Peggi DeGroote. You've seen the drill, and I understand you're

going to present one of those to each of us, so thank you in advance, I guess. I'd invite you to please begin now.

1530

Ms. Peggi DeGroote: Thank you very much, Mr. Chair, members of the standing committee, and ladies and gentlemen. I address you today as an Ontario citizen, a parent, a patient and president of Wellbeings Pain Management and Dependency Clinic.

I know that Ontario faces a really serious problem of epidemic proportion because of the inappropriate use of prescription narcotics as well as diversion of prescription narcotics. We need to work together to solve the problem and not to lay blame.

It is well known that our physicians receive little training in medical school in the areas of pain management and/or addiction. As you may be aware, veterinarians receive more than five times as much training as do our family physicians. We need to help out and make sure that we give the proper training to our doctors to give them the skills they need to be able to address the problems of pain and addiction. Action has to be taken now to ensure that people receive the care that they so desperately need in a timely fashion and that there is a comprehensive pain management strategy developed alongside a strategy to diagnose and treat people who suffer from pain and/or addiction.

It is possible to more effectively treat acute and chronic pain by ensuring that people have access to more timely intervention. There are alternative methods of pain relief that our physicians at Wellbeings offer. It's possible that if diagnosis and treatment were done while the person was still in the acute phase, many people would not endure pain into the chronic phase and people would enjoy an improved quality of life and reduce health care costs.

There are many differing opinions and theories as to how to treat pain, even within the pain community specialists. It's clear that there are many treatments which do reduce the debilitating effects of pain. Health care professionals need to address the issues of pain so that the effects of becoming addicted to prescription medications are lessened. I believe that if all health care professionals who prescribe narcotics were required to engage their patients and take the opportunity to educate them about the narcotics they wish to prescribe and had them sign a contract, that would be a good start.

I know, myself, as a patient, three years ago I underwent some surgery, and three days before, the physician's nurse called me and asked if I had filled my prescription. I didn't know that I had received one. I had seen the doctor. But the nurse told me that it was in the Duo-Tang that I had been presented with, and I found it. It had turned sideways. I took it out, and, only as a result of the fact of my more recent education in this area, I found that it was oxycodone that was prescribed. I asked the physician if she could please prescribe something that wouldn't be as potentially addictive and something that had a lesser value—some Tylenol would be a good idea—which they did. I think that people need to become

their own advocates, to know what it is that the doctors are actually prescribing for them. I think I'm in the generation where we do question our doctors, where my mother doesn't question a thing, and I'm really happy to learn that the younger generations are asking a whole lot of questions about what it is that they're getting.

I also was diagnosed seven years ago with a Morton's neuroma in my foot—very, very painful. I went and saw four different physicians: my family physician, as well as a foot specialist and two surgeons. It was recommended by the two surgeons that I get surgery on my foot—which is, of course, what they do anyway, so I shouldn't have been surprised—but I was given only a 20% chance of improvement in my foot. I didn't like those odds as a mathematician and didn't opt for that. I had one intramuscular infiltration injection in the bottom of my foot about 18 months ago, and I haven't had one bit of pain since. It's wonderful.

I know from what I'm doing now, which I'm doing because of my volunteer work initially, I've seen people who were addicted and who needed help in our community. It's not just northern communities that are suffering. We happen to come from an area that is well populated but was already identified in 2007 by the methadone maintenance task force as an underserved area. We have underserved areas right here where we're not helping people, and I think it really behooves us to offer treatments to people who want treatment and who then can become active community people, be good parents, good brothers and sisters. I don't want to hear any more stories like the gentleman who spoke here about his poor son who died. I attended two weeks ago, at McMaster, the pain symposium, where I learned of the death of a two-year-old as a result of diversion from methadone. The child thought it was orange juice in the fridge.

It's really sad to hear those tragic stories. I think it's important—one of the things I want to ensure is that people lock up their medications so that they are kept safely. It is part of a best-practice model to do that. We know that; we've been told—not that everyone follows that. But I think that if we did that, at least the tragic stories would be prevented.

As well, our youngsters now—from the Ontario secondary school drug survey in 2009, 21% of all kids in grades 7 to 12 report stealing their parents' pain medications. That's an alarming rate. Of that 21% who reported—the number might actually be higher, I think—72% report that they got them from home.

They have what are called “salad parties,” I've learned, where you steal your parents' pain medications, you go to a party and your entree to getting into the party is to throw the pills in a big pile in a bowl. You have to take a handful sometime during the party as part of the fun that you're going to have. Kids don't even have a clue how lethal this can be. At the least, they're lucky if they only need to have their stomach pumped at the emergency ward. Hopefully, we don't see those kids in the morgue, but sometimes we do.

My focus here is: In terms of the diversion, I don't think you've done quite enough in ensuring that one of the ways that we can, in the long term, make a difference for our own communities is by stopping the children right now who easily get access in our own homes to those medications. Sometimes with the first OxyContin they take, or the first fentanyl, or the first Percocet, they're already hooked. That's a sad state.

It happens to all children. This is across Ontario. This isn't just in certain communities. It's rampant, and it's sad. Kids don't get that this could be lethal. They think, because the medications are prescribed by doctors, that it's okay and that they're invincible—and they're not.

Before you go today, this is a medium box; there are small ones, too. I know the Honourable Ted McMeekin already has one and—

Mr. Ted McMeekin: We use it, too.

Ms. Peggy DeGrootte: Wonderful, because by using them, we will stop the diversion, if nowhere else, at least in our own homes.

There's also a track-it-back label. Dell Pharmacy has also got these now. There's a track-it-back label so that if it gets left on a bus, over 80% of anything that would be used that has a track-it-back will get returned to you—again, helping to stop diversion. We need to do that. We need to work together as community leaders to say, “We've got to make a difference, and we've got to do it now.”

When I went and talked to our local LHIN three years ago and asked about the fact that we didn't have methadone maintenance treatment in Burlington and Halton, I didn't like the fact that they said, “We're going to wait 10 years until the David Caplan study, Every Door is the Right Door, is done.” I knew that 10 years from now, it would be way too late for lots of people in our community.

That's why we're doing what we're doing. I'm so happy to support what you're doing, because it really is the right thing, the right way to go.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. DeGrootte. We'll begin with about, I guess, 30 seconds or so per side, beginning with the PCs. Ms. Jones?

Ms. Sylvia Jones: Looking at trying to do more diversion, is there anything specifically that we could incorporate into Bill 101?

Ms. Peggy DeGrootte: We don't want more diversion; we want less.

Ms. Sylvia Jones: Sorry.

Ms. Peggy DeGrootte: Right now, as part of the best-practice model for methadone maintenance treatment, they specify that the medications must be dispensed in a lockable box. I can tell you that from the pharmacist's point of view—because that's required by the doctor; it's between the doctor and the patient. But I think we need to have a bigger picture here, where the pharmacist is also involved in that as well—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones. Madame Gélinas.

M^{me} France Gélinas: You mentioned a number of kids who steal their parents' painkillers. I missed the percentage. Do you know it by heart?

Ms. Peggi DeGroote: It's 21% of all students in Ontario from grades 7 through 12. Of that 21%, 72% report that they got the stuff from home.

M^{me} France Gélinas: Do you now have methadone treatment in Burlington?

Ms. Peggi DeGroote: We do.

M^{me} France Gélinas: Good for you.

Ms. Peggi DeGroote: As well as pain, because my big thing was that we saw that so many people had pain.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Mr. McMeekin.

Mr. Ted McMeekin: Peggi, I marvel at the work you're doing in our local community—with a lot of opposition in the community at different points. I just want to thank you for that and for the work that you're doing.

You mentioned early and informed intervention. Are there some tricks that we, as a government, should be looking at fostering to ensure that?

Ms. Peggi DeGroote: Absolutely. We talk about educating our children, and one of the things—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there. Thank you, Mr. McMeekin, and thanks to you, Ms. DeGroote, for your presentation, as well as the lockbox which I believe you'll be offering to us later.

1540

ACTION PNP

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Ms. Frampton, the co-chair of Action PNP, people with neuropathic pain. Welcome, Ms. Frampton. You have 10 minutes in which to make your presentation. I'd invite you to please begin now.

Ms. Janice Frampton: Good afternoon. My name is Janice Frampton. I am the co-chair of Action PNP, or people with neuropathic pain, the patient advocacy arm of Action Ontario.

Action Ontario is a non-profit organization made up of physicians, other health care workers, researchers and patients who are advocating on behalf of neuropathic pain and other chronic pain sufferers.

I would like to thank you for this opportunity to speak before the Standing Committee on Social Policy on Bill 101.

Seven years ago I was diagnosed with a rare neurological birth defect called tethered spinal cord syndrome. This syndrome occurs when the spinal roots at the end of the nervous tissue are tangled up in scar tissue. It is degenerative and closely linked to spina bifida.

For the first 46 years of my life I lived with misdiagnosed, untreated neuropathic pain. Neuropathic pain is a particularly debilitating form of chronic pain that is the result of injury or disease of the nerves, spinal cord or brain. And because my pain went misdiagnosed and

untreated, I self-medicated with alcohol to cope. The worse the pain became, the more I drank, until I could drink no more, because death was quite literally tapping me on my shoulder.

Eventually, I ended up in a rehab centre, not here but in the United States. When I arrived at the Betty Ford Center with my bagful of pills, it was discovered that I was indeed an addict, but not to opioids; I was addicted to antidepressants. Why? Because the doctors I was seeing at the time were convinced that I wasn't in pain, I was just depressed and the pain I was experiencing was all in my head. So they loaded me up with antidepressants even though they knew I was drinking—a very lethal combination. Misdiagnosis, untreated pain, addiction—a vicious cycle that didn't include opioids.

So what does my story have to do with the debate around the narcotics legislation in the province of Ontario? Quite literally, everything. A correct diagnosis and treatment by physicians properly trained in the field of pain and pain management would have alleviated years of suffering not only for me but my family, not to mention the thousands of dollars it would have saved the provincial health care system. Sadly, my story is not unique, which illustrates one of the tragedies of our system and the potential harm of this legislation if it is left to stand as is.

Too many actual pain patients are misdiagnosed and denied proper medication and treatment. These patients may end up going down destructive paths to alleviate their pain while the wrong medications are over-prescribed for other people, possibly causing the same addictive cycle without relief.

Opioids themselves aren't the enemy and putting the fear of God into physicians who prescribe them isn't the answer and could cause more damage. Let me give you an example. After the introduction of Bill 101 on September 15, one woman blogged three times within a matter of 12 hours in a panic because her family doctor now refused to refill her opioid prescription, using the legislation as his excuse.

So what is the solution? First and foremost, it is education: Education of physicians about chronic pain in general, including more time spent in the classroom itself, especially primary care physicians who deal with about 90% of pain patients. As the last woman said, veterinarians receive more education in pain treatment than our physicians do.

Patient education and awareness programs must also be part of this process. For the record, narcotics are included in my pain management program, but because of my own experiences, I have become very self-aware. I know what works for me and what doesn't and I do not take medications just because they are prescribed for me.

Channels of communication between all health care providers, including but not limited to physicians, pharmacists and nurses, must be established. It is vital that these gateways be opened. Family doctors need to be properly equipped in order to diagnose and treat chronic pain in its early stages. This can be done by giving them

access to psychologists, nurses, self-management support systems and prevention tools like vaccines.

Chronic pain patients all tend to be lumped together. To be blunt, you wouldn't lump all cancer patients together; you would determine what kind of cancer a person has. So why is someone with neuropathic pain treated the same as someone with arthritis or sciatica? Because pain is considered subjective and is not necessarily visible to the human eye—it is often considered to be all in a person's head. But if someone who has cancer is in pain, they would be treated accordingly. Think about it.

The truth of the matter is: We are not all the same; our pain is not all the same. And this, in part, is why so many narcotics are over-prescribed. Because isn't that what you give someone who is in pain? Narcotics? Around and around it goes.

To this end, there need to be more options in the management of chronic pain. This means improved access for pain medications other than just narcotics and more options such as psychological treatments, physical therapy and other complementary treatments.

The province needs to establish standards and outcome measures for pain clinics. This will also help to reduce waste within the current system, such as with block shots or nerve block and soft tissue injection clinics. According to a Toronto Star article, when OHIP audits were stopped in 2003, the cost of these injections was \$24.4 million. In 2005, this number jumped by 44% to \$33.1 million. Based on these numbers, this amount will have more than doubled to \$67 million a year in 2010 dollars.

These clinics also dispense a large cocktail of medications, including narcotics, to the clientele, who usually visit them once or twice a week. They're called pill mills.

Having said all this, what Ontario needs are properly trained, licensed pain physicians. Right now, there is no such thing as a pain specialty in Canada.

Before I conclude, I'd like to take a moment to talk about insurance companies. Please consider this: Once this legislation is in place and a pain patient has gone over their quota, you can rest assured that an insurance company will cut that patient off. It won't matter if they have cancer or have undergone five spinal surgeries to correct a tethered spinal cord; the insurance companies will use this legislation to impose limitations and restrictions on their clientele that will cause more emotional, financial and physical strain on the patient—in other words, more pain. This potentially means no more medications, more substance abuse, and the cycle will continue. Remember, you don't need a prescription to go to the LCBO. There will always be someone there to sell something to someone, and a pain patient will do anything to alleviate their pain. Believe me, I know.

This may sound desperate, but desperate people do desperate things. Remember the lady blogging? There will always be people who circumvent the system. You know that, and I know that. What would you do?

This legislation may be a good first step in tackling the issue of narcotics overuse in the province of Ontario. But

unless we address the underlying issue of pain itself and the treatment of pain patients with the introduction of a comprehensive pain strategy for the province of Ontario, we will continue on the same myopic path and the same cycle of destructive, addictive behaviour.

Once again, on behalf of Action PNP, Action Ontario and pain sufferers without a voice in the province, I ask you all to consider a comprehensive pain strategy in Ontario. Without this step, we won't be able to truly tackle the narcotics problem. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Frampton. I believe we will go to the PC Party: Ms. Jones. About 30 seconds per side.

Ms. Sylvia Jones: Thank you for your presentation. You mentioned pain specialties. Are you familiar with other jurisdictions that would have that option?

Ms. Janice Frampton: Alberta.

Ms. Sylvia Jones: Alberta does?

Ms. Janice Frampton: Alberta, and I believe one of the provinces on the east coast; I think it's Nova Scotia.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: Are there centres of excellence in Ontario where they know how to look after pain?

Ms. Janice Frampton: Well, the one I go to: Dr. Mailis. She'll be presenting later. She saved my life.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals.

Mrs. Liz Sandals: I believe she is appearing later, so she may be the better person to ask, but are there protocols that will help us determine the legitimate use of pain medications versus overuse and abuse?

Ms. Janice Frampton: There are. That's why I say there has to be more education at the primary care level, because there is a lack of diagnosis there, and that's where everybody comes filtered to—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Frampton, for your deputation on behalf of Action PNP, people with neuropathic pain.

1550

DR. RAMESH ZACHARIAS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Mr. Ramesh Zacharias, to please come forward. Welcome, Ramesh. I'd invite you to be seated and please begin now.

Dr. Ramesh Zacharias: Mr Chairman, ladies and gentlemen of the Standing Committee on Social Policy, I would like to thank you for the honour and privilege afforded me to present to you this afternoon on the narcotics strategy being put forward by the government of Ontario.

My name is Ramesh Zacharias. I graduated with my doctorate of medicine from the University of Western Ontario in 1980. For the first 20-plus years of my practice, I worked as an emergency room physician in this province and, over the last eight years, I have had a focused practice in chronic pain and care of the elderly as

an attending physician and medical director of long-term-care facilities.

I consider myself one of the luckiest individuals alive, because I get to practise in two of the most exciting and rewarding areas of medicine: providing care to those suffering from chronic pain, and care for our elderly citizens to ensure that their lives remain active, functional and relatively pain-free.

As I have followed the landscape of pain management in this province and, more recently, the discussions around the use of opioids, I debated even appearing before this standing committee. What compelled me to seek this opportunity was reflection on the words of Martin Luther King Jr., who once said, “Our lives begin to end the day we become silent about things that matter.”

I must declare my conflict at the outset. During my opening comments, I mentioned that my area of clinical practice is pain management and care of the elderly. You see, over 30 years ago, I was diagnosed with diabetes. I have benefited from the comprehensive and interdisciplinary approach that this government and previous governments and we, as a society, have taken toward the chronic disease of diabetes.

Sixteen years ago, at the age of 42, I suffered a heart attack. Thankfully, because of the excellent care I received at Credit Valley Hospital, I not only survived that event but continue to enjoy a healthy life today.

Approximately two years ago, I started to develop early signs of another well-recognized complication of diabetes, in that I periodically get severe, shooting, burning pain in my feet, something we call neuropathic pain, which afflicts a variety of conditions, including diabetes. So, you see, I come before you not just as an individual who is practising in chronic pain, but as one who is starting on the long journey of being a chronic pain patient.

In preparation for presenting to this standing committee, I had the opportunity to review the narcotics strategy being proposed in this legislation and the document produced by the College of Physicians and Surgeons of Ontario entitled *Avoiding Abuse, Achieving a Balance: Tackling the Opioid Public Health Crisis*. I believe that these documents are a good start, and I’m confident that, with some changes, they can serve as a great step forward in addressing an extremely complex but relevant issue affecting two million citizens of this province.

By the age of 55, 50% of the population has some form of chronic pain. By the age of 65, over 60% of the population has some form of chronic pain, and if you live in a nursing home—I manage nine facilities—you realize that the published data are that 80% of that population has chronic pain. If I look around this room, almost five, if not six, of you will experience chronic pain at some point in time. This is a very relevant issue, not just to citizens but in fact to you.

I will frame my concerns in three areas. The first area I’d like to address is what I call “people and patients.”

This past September, the International Association for the Study of Pain held its biannual meeting in Montreal.

At the conclusion of the meeting, they held the first international summit on establishing the bill of patients’ rights. This summit had delegates from over 84 countries around the world. In its declaration that access to pain management is a fundamental human right, it describes 10 initiatives. I would like to mention just three of them: that all people have the right to access pain management without discrimination; that all people have a right to access an appropriate range of effective pain management strategies supported by policies and procedures appropriate for the particular setting of health care and health professionals employing them; and that all people have a right to access appropriate medicines including but not limited to opioids, and to access health professionals skilled in the use of such medications.

Ladies and gentlemen, health is a fundamental human right enshrined in numerous international human rights instruments. The International Covenant on Economic, Social and Cultural Rights, ICESCR, specifies that everyone has a right to “the enjoyment of the highest attainable standard of physical and mental health.”

My first recommendation to you as a committee is that this committee set forth the foundation for the necessary change that will benefit the citizens of the province of Ontario by proclaiming that “access to assessment and treatment of acute pain, cancer pain and chronic pain is a fundamental human right for the citizens of Ontario.”

The second issue I’d like to address is the issue of providers. Under-recognized and under-treated pain results in significant cost and loss, disability, impact on productivity and societal consequences. Comprehensive interdisciplinary pain management should be the standard of care in this province. The province can build on the model of diabetes to create a network of interdisciplinary pain management centres. Working in a long-term-care facility, I have the good fortune of being able to provide comprehensive services that are part of the global funding of the facility. In addition to the physicians, our residents benefit from assessments and treatment from the physiotherapist, pharmacist, occupational therapist, recreational therapist and psychiatrist, to name a few of the disciplines. Access to these highly trained professionals does not impose additional costs to the residents or to their families. In the long-term-care facility where I work as a medical director, we have been able to create a true interdisciplinary model of care involving 13 different disciplines, including our chaplain and the volunteer dog therapist.

It would be my dream to be able to participate in a similar model in the community. Unfortunately, the beneficial complementary services are beyond the financial capabilities of the majority of my patients. Access to these additional health professionals with complementary skills is critical.

My second recommendation to you is: Re-establish specific timelines for the creation of this model. Otherwise, it will unlikely occur in a timely manner, and unlikely in my lifetime.

The third area I’d like to address is the issue of pharmaceuticals. Inappropriate use and abuse of prescription

narcotics and other controlled substances is a major concern for all involved in the delivery of health care to patients with chronic pain. The five key elements of the narcotics strategy provide a framework for addressing this critical issue. In addition, it is imperative to also address the issue of the formulary supported by the Ontario drug benefit plan, ODB, to ensure that all drugs that are part of national and international guidelines are also included. It is inappropriate that we do not pay for drugs most of which are not narcotics but have been part of established guidelines, yet for reasons hard to comprehend, are not covered by this province. In some cases, this could result in using opioids because other non-opioids or alternative medications are beyond the financial capabilities of the patients. This moral dilemma needs to be eliminated.

My third recommendation is that the committee have a sixth strategy with a defined timeline of 2011 to expanding the ODB formulary to include non-opioid medications that are part of clearly established national and international guidelines.

1600

Finally, I'd like to close with the fact that no one would dispute the current problem in the use and abuse of opioids. We should not ignore the fact that the vast majority of two million Ontario patients who suffer chronic disease are taking their medications appropriately and are not involved in criminal activity. As Mahatma Gandhi so aptly put it over 60 years ago, "You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty."

Once again, please accept my sincere gratitude for having the honour to present my thoughts. May God give you wisdom as you deliberate on this important issue.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Zacharias, for your precision-timed remarks and for your deputation.

MEDAVIE BLUE CROSS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Mr. Haynes, vice-president, and Ms. Foran, director of Medavie Blue Cross. Welcome, and I invite you to please be seated. Please begin.

Mr. Martin Haynes: Mr. Chair and members of the standing committee, thank you for the opportunity to present this submission on behalf of Medavie Blue Cross. We have prepared a brief and wish to highlight the key points in that today.

At the outset, we wish to express our strong support for this important piece of legislation as well as the overall narcotics management strategy. We will confine our comments today, however, to the proposed legislation. In summary, we believe that this bill provides for the appropriate system-wide collection of data and the provision of information to prescribers and dispensers to support clinical decision-making. It will, we believe, also

restrict opportunities for the diversion of narcotics. It is important to recognize, however, that this legislation is not a solution in itself but provides the foundation for Ontario's narcotics management strategy. In the remainder of my comments, I'd like to outline our basis for this support and also highlight two recommendations to further strengthen the legislation.

By way of background, Medavie Blue Cross is a not-for-profit organization with over 40 years of experience managing benefit programs on behalf of governments and private companies in Ontario, Quebec and the four Atlantic provinces. Of particular relevance to our submission today is our 14 years' experience in administering the prescription monitoring program on behalf of the province of Nova Scotia. This program has been acknowledged as being one that is progressive and proactive and held in high regard by stakeholders. Medavie Blue Cross has played a central role in advancing the program's scope through several evolutionary progressions. This program, initially a data collection and analysis tool, has matured to one that today promotes evidence-based outcome measures and successfully addresses barriers that exist between stakeholder groups, such as providers, prescribers and law enforcement.

As a stakeholder in the health care sector in Ontario, Medavie Blue Cross was invited to participate in the round table sessions held by the ministry to discuss the issues of narcotic usage in Ontario. Of the industry stakeholders that participated, Medavie Blue Cross was the sole organization with experience in managing a comprehensive narcotics management program. Our experience has allowed Medavie Blue Cross to provide the ministry with insight as to the complexity of managing such programs, and we are certainly pleased to see that some of the insight and some of the recommendations we made through those round table and other discussions have been taken into account as the strategy and the legislation have been developed.

We do, however, notice two areas that we believe are worthy of consideration for amendment.

(1) The lack of a provision for the delegation of authority regarding the administration of any or all aspects of the program to a party other than the ministry: At this time, all other prescription monitoring programs in Canada are administered by independent organizations. The reasons for considering this are varied. First is the ability for the program and its interventions with all stakeholders to be viewed as being at a reasonable arm's length from government. Second is the opportunity for data to be analyzed and acted upon by an independent third party. Given the contentious issues around prescription drug abuse, Ontario may wish to build flexibility regarding the administration into the legislation at the outset.

(2) The lack of a provision to share data with regulatory colleges for the purposes of professional review: The ability of regulatory colleges to access or be provided data with regard to its members for professional review purposes is key to the value a prescription

monitoring program can deliver. The information available promotes proactive intervention by the program and by the regulatory colleges when issues of inappropriate prescribing or dispensing are suspected. A provision in this area is strongly recommended, with the recognition that detailed regulations are required to control release of and access to professional information, as well as, of course, the underlying data.

In summary, Medavie Blue Cross strongly supports the proposed legislation. With the modifications as noted, we believe it will provide a solid foundation to support the objectives outlined in Ontario's narcotics management strategy.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. You've left generous time for questions. We'll begin with the NDP and Madame G  linas, about a minute and a half or so per side.

M^{me} France G  linas: Thank you. You certainly seem to have experience in managing such a database. Could you explain to us some of the complexity of managing such a program? What can we expect?

Ms. Ann Foran: It's hard to put together in a minute and a half. There are a lot of complexities in terms of the requirements for privacy around the data, and the use of that data requires a lot of guidelines, a lot of regulations. So this legislation would have to be supported with very detailed regulations for all involved licensing authorities and stakeholders—access, research, use.

Another very integral part is how the program can support the stakeholder groups across the province in terms of moving the strategy forward.

Those are probably some of the complexities starting out that you're going to face in maintaining the balance in those relationships.

Mr. Martin Haynes: And I think, if I may add, as several other presenters have indicated, it's the complexity of relationships around narcotics management, particularly around pain management. All of those aspects are key as well—the appropriate intervention and inclusion of all stakeholders.

M^{me} France G  linas: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals?

Mrs. Liz Sandals: I was looking at your second recommendation, which I believe is similar to one of the recommendations that the College of Physicians and Surgeons made. I guess the question would be, does the regulation in Nova Scotia allow for this exchange of information, and what's your experience in administering that?

Ms. Ann Foran: Yes, it does, and our experience with that has been very positive. We obviously have very strict guidelines that the college is part of our board to begin with, so they understand and support those regulations.

What we're looking at primarily in sharing the information is when the college is involved in, perhaps, a disciplinary hearing or a review of one of their prescribers, or the pharmacists as well, with that college.

There are very clear privacy guidelines around when they can access that data, and they have to provide a written submission for request to satisfy the program that it's required.

Mrs. Liz Sandals: And if we were to look at the Nova Scotia legislation and regulations, we would find a model for that laid out there?

Ms. Ann Foran: You may find the overlying model, but we could certainly give you the detail.

Mrs. Liz Sandals: That would be very helpful. Thank you.

The Chair (Mr. Shafiq Qaadri): To the PC Party, Ms. Jones, Ms. Elliott?

Mrs. Christine Elliott: We don't have questions. A very clear, concise presentation. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Haynes and Ms. Foran, for your deputation on behalf of Medavie Blue Cross.

CENTRE FOR ADDICTION AND MENTAL HEALTH

The Chair (Mr. Shafiq Qaadri): I invite our next presenters to please come forward from CAMH, the Centre for Addiction and Mental Health with the University Health Network: Ms. Luce and Ms. Sproule, manager of public policy and advanced practice pharmacist. Please be seated. I'd invite you to please begin now.

Ms. Beth Sproule: Thank you very much. We're here on behalf of the Centre for Addiction and Mental Health. My name is Beth Sproule, advanced practice pharmacist at CAMH, as well as a clinician scientist, and my research program is around prescription drug abuse.

First of all, on behalf of CAMH I'd like to say that we support the Ontario narcotics strategy and that we're very pleased to see this legislation moving forward. Much of what we have to say today actually supports the presenters we just had, because we wanted to provide some key features and examples from the Nova Scotia program that we think are really quite good. So it's mostly supportive, and we'd like to see the legislation be able to allow or support these key features in a prescription monitoring program.

First of all is what has already been stated, that there's an independent board that oversees and administers the program. I think that's quite important and it sounds like you'll get the details from them of who is involved in that program. I think it's quite important that this independent board is then responsible for overseeing the program. Some of the key features are that this board then is responsible for determining which drugs will be monitored, and also key features such as that for the drugs that are monitored, they are monitored for everybody in the province who will be prescribed those drugs, regardless of the payer, so that it's across the board and not just associated with specific drug plans.

1610

Also, this board is responsible for issues related to privacy that were brought up by the previous speakers as

well. We think that it's quite important that this independent board is responsible for looking at issues of privacy and confidentiality, while at the same time ensuring that this prescription information is available in real time to clinicians—so for prescribers and pharmacists as they're working with patients—but balancing that with deciding what the appropriate disclosures would be to regulatory authorities or law enforcement authorities, for example. Having that independence, we think, is quite important.

We also think it's very important to make sure that there's the ability to have adequate evaluation of the program. It's not enough just to sort of be collecting the information; it's how it's used and analyzed to benefit patients—so having a clear way to be able to determine if it is in fact benefiting patients, if there is improved access to opioids for the treatment of pain, and at the same time reducing the harms associated with it. So, in particular, it's looking at whether the program actually reduces abuse and addiction towards these drugs.

The reason we want to emphasize that is because most programs don't have that as a goal, and they're not evaluated in that way. Often, it's just looking at whether there was reduced prescribing of opioids or something like that and not really looking at the clinical outcomes, both from the pain perspective and the addiction perspective. We know from other prescription-monitoring programs or control measures that they can have unforeseen consequences. The biggest example of that, as you may have heard, is the New York experience with triplicate prescriptions for benzodiazepines, where the program had the desired effect—that as soon as they were required to prescribe using triplicate prescriptions, the prescription of benzodiazepines dropped considerably—but the evaluation of the program showed that there was an increase in the prescription of other drugs, less desirable sedative hypnotics such as chloral hydrate or meprobamate, which was not the desired outcome. So I think it's important that there's a clear evaluation of the program.

Related to that, as far as looking at the outcomes for and ensuring access for the treatment of opioids for pain, we want to also emphasize ensuring that there's adequate access to these medications for the treatment of addiction as well and for people who suffer from both disorders. There's not a dichotomy of pain patients and addiction patients. Many people have both problems, and that's particularly complex to deal with. We want to make sure that there's adequate access to the medications needed for that as well.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We have about a minute and a half, maybe two minutes per side, beginning with Ms. Sandals.

Mrs. Liz Sandals: You spoke about the Nova Scotia model, where there's an independent board. What aspects does the independent board have some control over?

Ms. Beth Sproule: It sounds like, from my understanding, that it has control over the whole program, that they set the policies and procedures, which they then

recommend to the minister, and oversee the whole process.

Mrs. Liz Sandals: Who would be on the independent board?

Ms. Beth Sproule: My understanding is that there's representatives from the medical, dental and pharmacy regulatory authorities; there's independent representation; and there's also a non-voting member from the Department of Health.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Ms. Elliott or Ms. Jones?

Mrs. Christine Elliott: No questions. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: Do you share the belief by some people that this bill will make some legitimate prescriber shy about prescribing narcotics when they are needed and, as a consequence, drive the need for street drugs right through the roof?

Ms. Beth Sproule: I think, depending on how the program is set up, that is a risk. I think the way it's set up and rolled out needs to be clear that it's meant to help improve access and improve prescribing and not be seen as a punitive sort of program for prescribers. I think it really depends upon how it's communicated and how it's administered, and I think having this independence feature that we've been talking about would really go a long way towards that.

M^{me} France Gélinas: I don't think physicians in Ontario are that different from physicians in New York, and the experience there has clearly been that as soon as you asked them to put something in triplicate, they all shied away from that medication and went to anything else where they didn't have to deal with the government. It's not a big stretch to think that the same thing will happen here.

Ms. Beth Sproule: And again, I guess it depends on how it's set up: if it is an actual triplicate program or if it's just recording electronically what they're prescribing anyway. Actually, having a specific pad to write it on certainly can influence prescribing in and of itself, regardless of whether it's just tracked electronically or not, but I think it depends on how the feedback is given. I think in New York it was seen as a very punitive, very—you know, the goal of the program was to reduce benzodiazepine prescribing. Whereas if it's made very clear that the goal of this program is to help improve opioid prescribing and for the safety—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas, and thanks to you both, Ms. Luce and Ms. Sproule, for your deputation on behalf of CAMH, the Centre for Addiction and Mental Health.

ADDICTIONS ONTARIO

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Ms. Gatenby of Addictions Ontario. Welcome. Please be seated, and please begin now.

Ms. Deborah Gatenby: Hi, good afternoon. My name is Deborah Gatenby. I'm a member of the executive committee for Addictions Ontario, formerly the Alcohol and Drug Recovery Association of Ontario. We've been in existence for over 40 years, providing leadership for excellence in addiction services. Our members are service providers throughout the province of Ontario providing early intervention, health prevention and promotion, and treatment services. In the war on drugs, we're the troops on the ground. I'm here today to speak on behalf of those service providers, and grateful for the opportunity.

We've reviewed Bill 101 and all the presentations and commentary to date. Many of the concerns of our members have already been raised, so I won't discredit those speakers and my audience by belabouring the same points.

Our members want to commend Deb Matthews for her leadership in bringing the issue of opiate abuse to the forefront of our social policy agenda and for her commitment to action that will effect lasting change for our citizens. Two of the specific goals of the legislation are to reduce the abuse and misuse of narcotics, including medically inappropriate use, and to support treatment and reduce related deaths and addictions. Minister Matthews believes, as evidenced by her statement, that if passed, this legislation will save lives and protect individuals from harmful effects.

The bill, like the intentions of the health minister, has the full support of Addictions Ontario. We need to move beyond the disappointment and criticism of eHealth and recognize the merits of a tracking system that is simply done, uses OHIP and doesn't have to be complicated or drawn out.

The legislation is long overdue. It's so overdue, in fact, that despite its obvious merit, the window of opportunity for such measures has passed and will not open again until we get through this crisis. We cannot responsibly support a move to implement whole supply control strategies at this point. The inevitable consequences would be devastating for Ontarians who have already fallen victim to what is now a full-blown epidemic.

As stewards of the health care system, we must ensure that our decision-making is based upon factual, relevant and timely information: evidence-based research, peer-reviewed scholarly articles, empirical data and scientific method.

Fact: Supply control strategies aimed at prevention and reduction are only effective at the onset of an epidemic. Once the drug problem has matured, optimal policy is not to stop the growth of the epidemic but rather to moderate it. Treatment should receive a larger share of resources than any control or enforcement strategies.

Fact: When the supply of one drug is reduced, consumers switch to an alternative. Our honourable Minister of Finance and fellow Windsorite already knows that economists call this a substitution effect.

Fact: Decreased supply with unchanged demand results in increased drug prices. Addicts turn to crime and

adopt faster but riskier routes of using reduced drug quantities to produce the same desired effect. Injection use escalates.

Fact: Decreased demand with unchanged supply results in reduced drug prices. Addicts' total expenditures on drugs are reduced and there is less incentive for crime and high-risk use.

1620

Fact: To avoid a negative outcome, demand reduction must be at least equal to supply reduction. To achieve a positive outcome, demand reduction must exceed supply reduction. Reductions in supply are achievable without reductions in demand but only at an unacceptable cost to human rights.

Fact: In order to promise an unambiguously positive outcome to Ontarians, resources must be concentrated exclusively on demand reduction.

Fact: In order to achieve identical measurable impacts on rates of drug misuse, an investment of \$246 million in control is required to deliver the same outcome as an investment of only \$34 million in treatment. Reduced supply strategies deliver results, but only at a cost seven times higher than those aimed at demand.

Fact: Addiction is a disability—chronic, progressive and, if untreated, fatal. Societal, economic and cultural factors influence population vulnerability and cause variations in per capita rates. Availability and cost are not correlates to incidences of addiction disability, but rather to specific drug prevalence rates, quantities consumed, methods of use and negative consequences. Chemical dependency is distinct from addiction disability and is a separate focus of health care and social policy.

Fact: Prescription narcotics are manufactured under quality controlled conditions; have reliable, consistent and predictable concentrations of active ingredients; and are free from pollutants. While organized crime may profit off the illicit supply of these drugs, the net revenue generated from their initial production and manufacturing benefits legitimate domestic corporations who contribute to our tax base and have a vested interest in public health care. Heroin and other illicit substances are manufactured in uncontrolled environments, without consideration for quality. They have unreliable, inconsistent and unpredictable concentrations of active ingredients, and contain a host of pollutants that often pose greater risks than the drugs themselves. Organized crime profits off the supply and the net revenue generated from production and manufacturing. This benefits illegitimate foreign interests and reduces our tax base resources available for health care by increasing criminal justice spending.

Women with addictions are at increased vulnerability for exploitation due to their low position on the criminal supply hierarchy. Terms like "drug lord," "cocaine czar" and "kingpin" are gender specific for a reason; if we follow the money and power to the top, there are no women there. Women and children are the casualties of the war on drugs.

Fact: Intervention, treatment and harm reduction strategies are easier to apply and achieve better outcomes

when applied to prescription narcotics than to heroin. Fewer accidental overdoses occur among users of prescription narcotics than heroin.

Fact: Opiate use gradually induces drug tolerance among users. Increased dosages among chronic, heavy users can commonly result in them using 28 times the amount that they started with just to reproduce the desired effect. Escalating consumption rates of a habitual user can single-handedly drive overall quantities up every year at rates that are double that of any new user. Intervention strategies aimed at heavy users will take illicit OxyContin tablets off the market twice as fast as any new users can begin to use them.

So, now that we've considered the facts of our situation, we need to re-evaluate how we're going to tackle this problem. Addictions Ontario members are eager to work together with this government starting today. Unified, with a single priority of purpose, we want to build on the momentum that Bill 101 has already created. We cannot afford to waste any more time waiting for money to solve this problem while costs grow further and further beyond our reach. We need to make hard decisions quickly about the reallocation of resources within all of our existing base budgets. We need to draw concentric circles around our core services and then realign spending with actual and forecasted service utilization rates.

Each of us is responsible for ensuring that adequate resources are made available to invest in strategies that will produce meaningful outcomes for this priority. We have been entrusted by taxpayers to provide for them the best addiction treatment system possible, and we have been given a finite amount of money to do that with. We need to stop putting our energy into this idealized notion that a basket of services can be available around the province when what is needed is a triage system that places interventions in appropriate priority. Elective surgeries are a luxury when people are dying at the entrance to your emergency department. We need to use our expertise to preserve for the people of Ontario what is most valuable in a reality that cannot possibly sustain everything.

The Honourable Minister of Health says that she was working with a group of experts to develop recommendations for ways to move forward. We know, based upon the facts that we have considered, that we need to consolidate some gains in these areas first before we can get to the control and enforcement strategies that make up Bill 101. Even if the legislation were passed, it couldn't be implemented without resources. Fiduciary responsibility prohibits investment at this time because we may end up squandering \$2 in collateral costs for each \$1 attempt to save in solving this problem.

Addictions Ontario is positioned to act. Our collective expertise uniquely qualifies us to provide recommendations that will enable the addictions system to move forward without any further delay and reverse the growth of this epidemic that has taken the life and health of too many Ontarians already. We request that each LHIN be empowered, in full partnership with their addictions—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Ms. Gatenby, but I'd like to thank you on behalf of the committee for your deputation on behalf of Addictions Ontario.

DR. ANGELA MAILIS-GAGNON

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward, Ms. Angela Mailis-Gagnon. Welcome, Ms. Mailis-Gagnon. You've seen the drill. You've 10 minutes in which to make your presentation—

Dr. Angela Mailis-Gagnon: I'm very aware.

The Chair (Mr. Shafiq Qaadri): Yes, please begin.

Dr. Angela Mailis-Gagnon: I'm Dr. Mailis-Gagnon. I'm the head of the comprehensive program of the Toronto Western Hospital University Health Network, I'm a senior investigator with the Krembil Neuroscience Centre at the University Health Network, I'm a full professor of medicine at the University of Toronto and I hold a master's of science degree as well, except in my specialty in physical medicine. I'm a popular science writer and my book *Beyond Pain* was published in Canada in 2003 and 2006, and in the United States as well. I'm a science writer for the Canadian Association of Retired Persons' electronic newsletter, the Advocacy newsletter, and my column is read by 80,000 people every two weeks across the country, 60% of whom are coming from Ontario.

I'm also the chair of the patient advocacy group for education and advocacy on neuropathic pain and chair of Action Ontario, and additionally, I had the honour of being a member of the Narcotics Advisory Panel of Helen Stevenson, now Diane McArthur, and Deb Matthews. So I have total knowledge of the problem.

I practised pain management for 28 years, and my unit has been the only one funded in the whole of the province by the Ministry of Health for the last 20 years. That's the only reason why I have survived with my team, simply because we have gone on salary, as the current system for fee-for-service does not really serve patients with pain.

Having given you my credentials, I have seen in 28 years over 20,000 patients with chronic pain. I'm one of the founders for the University of Toronto's Centre for the Study of Pain. So I come with a lot of baggage and a lot of patients with me.

Having said all of that, of course I will support Bill 101; I was part of the group that created it. But this is only treating the symptom of a disease. If you think that Bill 101 is treating the disease, it's a mistake, because opioid abuse is only an outcome of a broken-down system that never existed in the first place.

You cannot treat chronic pain if you're not educating your physicians and your health care providers from within the school. You cannot get out trained physicians if they receive five times less training in medical schools than a veterinary doctor who's going to treat your dog—your dog would have better treatment than my patients

would. And when they come out there with no training and with a population of which one third has experienced or will experience pain, the physicians have no resources at the primary care level—(1) 90% of all pain is treated by the primary-care-level physicians, who have no training; (2) there are no resources for those physicians; (3) there is no time, because the current system of fee-for-service does not remunerate for time. It takes 30 seconds to write a prescription for opioids and 30 minutes to scratch the surface of a chronic pain patient.

Then you go a lot higher. You say, “We need pain clinics.” But there is no formal training in this country. None of us has any training in this country. There is a process now to try to establish a subspecialty at the Royal College level. It’s going to take many years. People try to get the training through continuous medical education, but there are now absolutely no standards in this whole country about who is a good pain clinician and who is not.

1630

Many of us work there for the love of our hearts because this is what we love doing, against all odds, working very long hours. Others will use the system because there are only very few things in the system that are remunerated. One of those is nerve blocks. One of my patients already spoke to you about the cost of nerve blocks: \$24.3 million in 2003. When the audits were stopped in OHIP, it went to \$33.1 million. By estimates, today the cost to the system will be \$67 million.

I’ll give you an example. I saw a patient the other time, and this is a real patient, and he said to me, “Excuse me; follow up? Let me see if I can fit you in my book. Monday, Wednesday and Friday I have my blocks.” He had these blocks for three years, three days a week, and he said, “Oh, by the way, I have a few emergency visits in a month,” because the clinic is operating seven days a week at a cost to OHIP.

On the other hand, we talk about the abuse of opioids, and you heard all my other co-speakers, and they know very well there’s no question about that. This is a big issue. I just saw a patient—this is really true—and he had Crohn’s disease. He was on 180 tablets of Dilaudid—eight milligrams a day—plus 200 micrograms of a Duragesic patch. Let me give you the numbers in morphine equivalent. He was on 9,360 milligrams of morphine equivalent a day for the number of 5,400 Dilaudid tablets that he was taking. I asked the pharmacist about the cost, and the cost to the pharmacy was \$3,350.39 a month for an amount of \$40,740.75 a year, all paid for by the Ontario drug benefit program. This is one of the things that Bill 101 tries to establish and correct, but it would be a major mistake—if this committee goes out of here and says the narcotics, the doctors will be chilled off. They won’t prescribe. I tell you, they don’t prescribe now.

What we are facing is the dual tragedy of pain: We have a bunch of doctors or physicians or patients who abuse or overuse the medications, and we have hundreds of thousands of others who are under-treated. Opioids may make the difference between them being in bed and

walking out. I have 92-year-old patients that I treat with morphine drops and I get all the hugs and the kisses because grandpa, instead of being in bed for eight years, is out there travelling to Holland. This is a reality: The dual tragedy of the bad management of pain is happening right now. That is what we cannot afford to miss.

Having said all of that, what do we do for a problem that is huge? First of all, all governments, all provinces shy away from a comprehensive strategy on pain. For what reason? “My God, it will be very expensive.” Well, you don’t establish new programs to clean up the mess without spending, but I would say to you, because I’m very fiscally responsible and I have operated on a government shoestring for 20 years—mind you, this government and all the other governments have never given an increase in my program for 10 years. But that’s irrelevant; nevertheless, I survived. However, when you look at that, you have a waste in the system that you have to correct. First of all, look at the system where you are and cut the fat, rearrange resources, reallocate resources, and then when you look at a comprehensive pain strategy, from the primary care level all the way to the subspecialty clinics, go in steps. Look at the landscape first, all of the elements, all the players, all the stakeholders. Connect the dots. Never put a strategy in place if you don’t have fiscal responsibility and if you don’t have outcome measures. If you don’t have metrics, if you don’t have performance indicators to make sure that the thing you put in place works, don’t put it in place.

This is indeed a complex issue, but it can be accomplished across a chronic disease model, very carefully bringing on the stakeholders.

The last thing that I want to tell you, because I’m about to finish: Don’t think you’re inventing the wheel or reinventing the wheel. Alberta: The Calgary region has already had a comprehensive strategy for 16 years. We are lucky to have imported from Calgary one of the godfathers of this strategy, who is now a permanent resident of Ontario. So there are others who have done that. Quebec has almost the form of an octopus in a very comprehensive strategy. Look at other jurisdictions in Canada. Don’t reinvent the wheel.

It is possible that things can be done. They need care. They need comprehensive management from the bottom all the way to the top. What you have to ask is not only what it’s going to cost us to do it, but what it’s going to cost us if we don’t do it.

Thank you very much. I finished in time, sir.

The Chair (Mr. Shafiq Qaadri): Thank you, Professor Mailis-Gagnon. We only have 20 seconds a side, beginning with the PCs.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: What would you like to see as an outcome measure?

Dr. Angela Mailis-Gagnon: As an outcome measure, I would like to see, for example, the number of patients who are treated at the primary care level who would never need a clinic like mine. I would like to see—just to

get a primary care understanding of what pain they have and what percentage of these people will go into—

The Chair (Mr. Shafiq Qaadri): Thank you.

Mrs. Liz Sandals: Actually, I had the same question, so keep going.

Dr. Angela Mailis-Gagnon: Yes. That would be one of the outcome measures you would like to have, and then there should be other kinds of metrics. For example, if you are going to put in place comprehensive pain teams, establish in advance what are the standards and credentials for these kinds of teams. When you establish them, find out what kind of people they treat, how many times they need to treat them, do they keep a revolving door, going there forever, and find out—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thank you, Professor Mailis-Gagnon, for your deputation. As I did mention earlier, please feel free to submit any further questions or comments in writing to the committee.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, Ms. Cava and Ms. Mulrooney of the RNAO, the Registered Nurses' Association of Ontario, to please come forward. Welcome, and I'd invite you to please begin now.

Ms. Maureen Cava: Good afternoon, and thank you. My name is Maureen Cava, and I'm a member of the board of directors for the RNAO. With me today is Lynn Anne Mulrooney. She is the senior policy analyst for RNAO.

RNAO is the professional association for registered nurses who practise in all roles and sectors in the province. We represent over 30,000 registered nurses, and our mandate is to advocate for healthy public policy and for the role of the registered nurse in enhancing the health of Ontarians. We appreciate the opportunity to present this submission on Bill 101 to the Standing Committee on Social Policy.

Bill 101, if passed, would allow the Ministry of Health and Long-Term Care to collect, monitor and analyze, through an electronic database, information related to prescription narcotics and other controlled substances dispensed to anyone in Ontario.

RNAO supports Bill 101 as an important first step to address the urgent situation causing death and misery for so many individuals, families and communities across the province. RNAO recommends attentiveness to safeguards to ensure confidentiality and privacy. These elements are essential for all Ontarians when personal health data is collected. There is even more at stake for those with actual or perceived mental health and addiction challenges, who already experience societal stigma and discrimination. RNAO also urges further consultation with rural, remote and aboriginal communities and their front-line clinicians in order to address challenges that could hinder the bill's effective implementation.

RNAO congratulates the Select Committee on Mental Health and Addictions for their attentive listening in their travels across the province, and recommends implementation of the approaches in their thoughtful report, *Navigating the Journey to Wellness: The Comprehensive Mental Health and Addictions Action Plan for Ontarians*.

As the committee found, and as too many inquests have confirmed, there is no coherent mental health system to help the one in five Ontarians living with mental illness and addiction problems. It is not surprising that only three in 10 Ontarians living with mental illness and addictions problems are able to access any help. This is because Ontario and Canada rank lowest of OECD countries in terms of spending on mental health services.

Ontario cannot afford not to act on a comprehensive mental health and addiction strategy, because the human toll touches almost every family. For this reason, RNAO continues to advocate for the development of an integrated and seamless mental health care system for all Ontarians, with interprofessional collaboration, delivered at the individual's preferred location. Special consideration should be given to the following groups: members of aboriginal communities, older adults tackling both new and ongoing mental health and addiction challenges, people from racialized communities, new Canadians, people with disabilities, discharged members of the Canadian Forces, children and youth requiring increased and enhanced mental health and addiction services, inmates in correctional facilities, and rehabilitated ex-convicts.

1640

The title page of the provincial narcotics strategy describes it as "Ontario's plan to reduce the misuse and abuse of prescription narcotics and other controlled substances." Although there is a stated benefit that the strategy will "ensure those with legitimate medical needs get the medications they require," there is a danger that a focus on narcotic abuse could hinder access to essential pain control.

The WHO has observed that 50 years' focus on the prevention of drug abuse has resulted in severe under-treatment of severe pain in more than 150 countries, both industrialized and developing. The *New York Times*, for example, recently reported on how patients in nursing homes "have become unintended casualties in the war on drugs because of a new level of enforcement intended to prevent narcotics from getting into the wrong hands."

Canada and the US both rank ninth in the Quality of Death Index that compares end-of-life care across 30 OECD countries and 10 selected others. The United Kingdom ranks first in the quality of end-of-life care as a result of its hospice care network, statutory involvement in end-of-life care, access to painkillers, training availability, public awareness and physician-patient transparency.

At a recent meeting of the RNAO, a number of nursing leaders expressed concern about inconsistent and inequitable access to palliative care services across the province. Compassionate, knowledgeable, skilled nurses

spoke of their frustrations, knowing that those in their care were not receiving the care they felt ethically obligated to provide at the same time as they were struggling with long hours, disproportionately low wages and the need to engage in fundraising for what should be essential health services.

These system gaps, including difficulties with poor pain and symptom management, have also been documented by the Ontario end-of-life strategy and Cancer Care Ontario. Nurses expert in palliative care are skilled at a wide variety of comfort and care measures to address pain and other symptoms. Narcotics are one of the essential interventions for pain control. Lessons from extended independent nurse prescribers in palliative care in the UK is an area worth exploring for its potential contribution to holistic, seamless palliative care for patients as well as for insight into challenges.

While it is obvious that we have a societal responsibility to ensure that those who are dying are as comfortable as possible, we must also be responsible in addressing the needs of the up to 3.6 million who live with chronic pain in the province. People in pain need to be able to access what they need without stigma. This includes people with addiction and mental health issues who also have pain control needs. While there may be a temptation to try to divide people into two distinct groups—legitimate patients with pain and abusers—reality is not that neat.

We would like to invite the Standing Committee on Social Policy to read our full set of recommendations along with our detailed rationale in our written submission.

The RNAO thanks the Standing Committee on Social Policy for the opportunity to present our feedback on Bill 101 and the opportunity to improve the health and wellness of all Ontarians through bold leadership on a comprehensive mental health and addictions strategy, as well as improving access to appropriate and humane pain control.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We'll begin with the NDP—about a minute or so—Madame Gélinas.

M^{me} France Gélinas: I was most interested by your comment regarding end-of-life and palliative care fundraising for what should be essential health services. Do you mean that the palliative care hospice is not getting full operational funding? Is that what you were referring to?

Ms. Maureen Cava: That's correct.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): Merci, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: I also was interested in your comments on palliative care. Are there any good guidelines that you're aware of around pain management for palliative care? Clearly, that's something that is part of education. We need to be working with physicians.

Ms. Maureen Cava: I do know that there are a number of different resources for palliative care guide-

lines. If there is a specific one that is used across the board, I'm not aware of it, but certainly we could provide that to you if that's something you're interested in.

Mrs. Liz Sandals: It seemed to me that as we look at education for NPs and people who are working in palliative care, it's really important that we figure out how to do that well.

Ms. Maureen Cava: Right.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Now to the PCs: Ms. Jones.

Ms. Sylvia Jones: In the second page of your submission, which was excellent, you made a comment urging further consultation in the north and in rural and aboriginal communities. That opportunity for consultation was removed from us earlier this afternoon when the government removed the opportunity for travelling to the north. Why was it important for you to mention that in your submission? Do you see unique challenges that we need to hear about?

Ms. Maureen Cava: Certainly, I do think there are unique challenges in the north. There are many different challenges. One I'll highlight is just access to service. When you think about living in a northern community, albeit small, with perhaps not the resources and physicians and/or other health care providers—nurses, individuals who can deal with mental health issues—there is a huge problem with access to services. That's one of them. There are many other issues, but that's the one I'll highlight because I know time is limited.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to Ms. Cava and Ms. Mulrooney for your deputation on behalf of the RNAO.

DR. RICK GLAZIER

The Chair (Mr. Shafiq Qaadri): I'd invite our next presenter to please come forward, Mr. Glazier. How are you? Welcome, and please be seated. Please begin now.

Dr. Rick Glazier: Thank you very much. Good afternoon. I want to thank the members of the committee for giving me this opportunity to speak to you this afternoon. I will leave some notes afterwards. I regret I didn't get you notes ahead of time.

I'm speaking to you in my role as the father of an 18-year-old son, Daniel, who died of an unintentional oxycodone overdose in July 2009. I'm also a family physician in downtown Toronto, and therefore a prescriber of narcotic medications. I'm also a health services researcher here in Toronto who is deeply concerned with the connection between evidence, medical practice and health policy.

I first want to state that I strongly and fully support the provisions of Bill 101 and of the narcotics strategy. I wish to raise two further issues to consider in relation to that bill.

The first issue is that the collection of prescribing information for narcotics and other controlled substances is a necessary step to control widespread misuse of these medications and to prevent deaths. This step is insuffici-

ent, however. It is vital that this information be available in real time to prescribers and dispensers so that inappropriate and dangerous prescriptions are not written and, if written, are not filled. This would require regulations allowing and compelling prescribers and dispensers to consult an up-to-date listing of the narcotics and controlled substances prescribed to the patient before they wrote a prescription for or dispensed such a medication. It would also require regulations establishing these procedures as the expected standard of care and allowing oversight and discipline by the appropriate regulatory colleges if a member did not maintain this standard of care.

The second issue is that of treatment. To our dismay, my family and I found that no treatment facilities for Daniel's problems were available in Ontario in the needed time frame. My wife and I, both health professionals, faced three years of constant bureaucratic and financial challenges in an attempt to obtain appropriate treatment for our son. No Ontario families should be forced to endure what we did just to obtain needed medical treatment for a sick child.

In Daniel's case, the problem was concurrent disorder: both a serious mental health problem and a serious substance use problem. This is an all-too-common combination for which treatment facilities for adolescents are almost entirely lacking in Ontario.

Investment in residential and outpatient treatment facilities for mental health problems, substance use problems and their combination is badly needed for all affected age groups in Ontario. I would like to see that investment as an integral part of the implementation of the narcotics strategy.

I appreciate this opportunity to speak with you about these matters, which are so very important to me personally and professionally.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Glazier. We have lots of time, with I guess two minutes per side, beginning with Ms. Sandals.

Mrs. Liz Sandals: Thank you so much for sharing your story with us and becoming such an advocate.

I have a couple of questions. The business of having prior prescription information available: If we were going to amend an act, that may not be something that is going to be instantly available. But what you would like to see is for us to at least put the legislative placeholder so that as the e-record capacity increases, it would be available in the future. Is that your thinking?

1650

Dr. Rick Glazier: My reading of the bill suggests that the minister does have the power to collect and release this information appropriately. The bill, I think, allows for that. Providing this information in real time to the prescribers and dispensers would be the only way to prevent these prescriptions from being written at the time that they're presented.

Mrs. Liz Sandals: So what you're asking for, then, is that the information which the bill authorizes the minister to collect, which is somewhat after the fact, at least be

made available to the physician who's prescribing in the future.

Dr. Rick Glazier: Yes. I am able today, as a physician, to access the Ontario drug benefit plan prescriptions and check them before I write a prescription. So that system is actually already in place and already available to me, and I believe already available to pharmacists and in Ontario's emergency departments.

This would expand that to all prescriptions. It would also compel prescribers and dispensers—that would be my strong preference—to check that registry before writing or filling those prescriptions.

Mrs. Liz Sandals: Okay, thank you for clarifying what you're looking for, there. That's very helpful.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. To the PC side: Ms. Elliott.

Mrs. Christine Elliott: Thank you very much, Dr. Glazier, for your advocacy on this. We take very seriously the comments that you're making.

I gather, with respect to Ms. Sandals' question, that it wouldn't take too much, then, in order to tweak the system so that it could provide that information in real time? That can be done? We could build that in fairly easily?

Dr. Rick Glazier: That's correct. The current system does provide access to an awful lot of prescriptions written in Ontario.

Mrs. Christine Elliott: And the other question, just on your comment with respect to treatment facilities—that is something that we did hear a lot from parents during the committee hearings on the select committee, so certainly there are recommendations in that regard. We intend to press for full implementation of the report.

Dr. Rick Glazier: I'm pleased to hear that.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Madame Gélinas.

M^{me} France Gélinas: Along the lines of what you just heard, would you know if treatments are now available where you live, if then was now?

Dr. Rick Glazier: My understanding is that treatments for adolescents for concurrent disorders are currently in the same state—very close to the same state. There are a couple of private treatment facilities, not funded by OHIP, that have opened in Ontario in the ensuing years. Access to those remains poor. Waiting lists remain very long. The Centre for Addiction and Mental Health, for example, does treat concurrent disorders but not in adolescence. That's the province's leading facility, but it does not treat adolescents for these problems.

Residential treatment is very, very difficult to get, and aftercare for residential treatment. We found, in the system, that we could not get the combination of addiction and mental health treatments in the same health professionals or the same centre, and that is true today.

M^{me} France Gélinas: If you're not comfortable sharing, you don't have to answer the next question. Do you know how your son was getting the OxyContin?

Dr. Rick Glazier: Yes, I can answer that. My son Daniel was not a habitual narcotics user and we do not

know how he got the medication. There was an autopsy. He had toxic levels in his blood, at the autopsy, of oxycodone. He was found with a bottle of OxyContin in his room, and it is our belief that he bought it on the streets. He did express intents at various times to do that, and unfortunately we believe that's what he did. So it is the wide availability of drugs like Percocet and OxyContin on the street that I believe contributed to his death.

M^{me} France G  linas: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame G  linas, and thanks to you, Dr. Glazier, for coming forward.

Dr. Rick Glazier: Thank you very much.

DR. ALLAN GORDON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Dr. Allan Gordon, to please come forward.

You've seen the drill, Dr. Gordon. I invite you to please begin now.

Dr. Allan Gordon: Mr. Chairman and members of the standing committee, my name is Allan Gordon and I am a neurologist and director of the Wasser Pain Management Centre at Mount Sinai Hospital in Toronto, and an associate professor at the University of Toronto.

The Wasser is an internationally recognized, multi-professional academic pain management centre providing multimodal, multidisciplinary clinical care to chronic pain patients from all over Ontario and the rest of Canada, with about 10,000 patient visits a year. We are also involved in research and education in chronic pain. We advocate and practice pain assessment and diagnosis and risk assessment. We use a wide range of pharmacotherapy agents, various interventional procedures, traditional Chinese medicine, psychological treatments and self-management. We use Telehealth and are developing Web-based education teachings, and we do it all on a shoestring; maybe a slightly smaller shoestring than Dr. Mailis, because we don't get the kind of funding that she gets from the ministry. But we do operate on a shoestring.

Our education mandate in chronic pain is at the undergraduate, postgraduate and community level, with health care professionals from Ontario and well beyond. We give lectures and provide preceptorship training for health care professionals.

We provide tertiary and quaternary care to men and women with pain and addiction and dependency issues. We treat intractable headache; failed back syndrome; excruciating pelvic, genital and abdominal pain; temporomandibular disorders; fibromyalgia; neuropathic pain such as shingles; and diabetic nerve pain.

According to a 2008 Nanos survey, 18% of Canadians suffer from moderate to severe chronic pain. This means that in Ontario, up to 2.5 million men and women have moderate to severe chronic, non-cancer pain. Various Canadian studies have shown that direct and indirect

costs of moderate to severe chronic pain range between \$10,000 to \$15,000 per patient per year, yielding a \$20-billion or more expenditure for Ontario citizens.

Pain is a real disease. Try it. You won't like it; I guarantee that.

We all agree that Ontario faces a serious problem with the inappropriate use of prescription opioids and that something must be done. Bill 101 is a good start at addressing this problem. However, Bill 101, as it currently stands, may not be enough. The bill seems to assume that the problem arises from opioid medications prescribed by doctors and dispensed by pharmacists.

But this is only a part of the problem. The bill does not seem to provide a comprehensive surveillance system aimed at discovering drug thefts; diversion practices; poison control centres, what happens there; stealing drugs from grandma, which is a new way of getting medication; forgeries of prescriptions; drugs imported from other jurisdictions; or even following the flow of medication from manufacturer to distributor to pharmacy.

A system like the US RADARS system is necessary, and we could model a made-in-Canada RADARS system, possibly paid for by the pharmaceutical companies, as occurs in the US. This is a system that does significant surveillance. It looks for noises in the system.

The bill also does not state what will be done with the information, with the data, how it will be analyzed and what uses will be made of this information. It does not look at the overall comprehensive management of pain and pain and addiction. Would this not be an ideal time to do it right and collect enough information to make the system right?

If we truly want to stop the inappropriate use of prescription narcotics, we must address some of the key factors that have caused these medications to be over-prescribed, flooding our community and fuelling illegal activity. Ontario needs to research, develop and embark upon a comprehensive pain strategy in tandem with a narcotics strategy in order to treat chronic pain more effectively, to better use health system resources and to decrease the social costs of the illegal use of pain medications.

I was fortunate to be a member of the working group that authored the CPSO document entitled *Avoiding Abuse, Achieving a Balance: Tackling the Opioid Public Health Crisis*. This document shows the need for a comprehensive pain strategy and the provision of more addiction expertise in Ontario. I would urge the members to read this document and act upon it. It is available on the CPSO website. I'm not sure if you have it.

We also ask that the government seek input from health care providers and patients on the development of this comprehensive pain management strategy. We do appreciate this opportunity to provide input through this committee hearing. However, many relevant stakeholders such as physicians with heavy clinical loads or patients who need to be heard will find it difficult to present on such short notice. These will be valuable opinions that can help to improve this legislation and the narcotics strategy going forward.

I urge the government to make chronic pain a priority, to increase the number of hearings and to travel outside of Toronto to accommodate regional issues. North-western Ontario, southwestern Ontario, southeastern Ontario, the nation's capital and even Toronto the Good are all crying out to tell you what their stories are about how they deal or do not deal with chronic pain—a human and economic disaster in the making.

My colleagues and I in the academic and general pain communities have much information and many ideas to give. Put chronic pain on the front burner: Consider it a disease complex, a series of debilitating conditions affecting 18% of the population. Like Rodney Dangerfield, pain gets no respect, unless you happen to have it, or you are annoyed that your employee is laid up with a migraine or fibromyalgia, or you are involved in the care of a relative with pain. Listen to health care practitioners, but even more important, listen to the pleas, stories and sufferings of the many people of the province who are touched by pain, with all its economic and humanistic costs. You may have to go outside of Toronto or appoint someone to do it for you. Certainly, a more comprehensive review is clearly necessary. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. A minute per side, the PCs beginning, Ms. Elliott.

Mrs. Christine Elliott: Thank you very much for your comments. We really appreciate the fact that you commented on the need to get the perspectives across the province. I suppose you've heard that we are not going to be travelling with this bill; that, I think, is going to be a problem because we're not going to get that regional perspective.

But the chronic pain strategy and the comments that most presenters have made today indicate that this is a good piece of a very big picture that we need to take a look at and that we need to keep going with this.

I just want to assure you that consequent upon the report of the Select Committee on Mental Health and Addictions, and we're hopeful of Mental Health and Addictions Ontario being created, we'll be able to get into those issues, the development of a chronic pain strategy to go along with the narcotics strategy. So we will continue. We are listening. I just wanted to give you that feedback.

Dr. Allan Gordon: That's welcome news. Thank you.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: I'd also like to know why you included travel outside of Toronto? What would you figure we would gain by that?

Dr. Allan Gordon: I've travelled all over the province, lecturing, seeing people. The problem in the north-west part of the province is horrible. It's chronic pain; it's underserved. There are drugs all over the place. They're very concerned. You know, 22% of women going into the delivery room in Thunder Bay are on oxycodone—22%, a huge number. There are pockets in the Chatham area, Ottawa and Durham county. You need to actually see what's going on. You need to talk to the practitioners, the ones whose licences have been suspended a little bit because they've been using opioids, but also the patients who have chronic pain. That's why I put it in.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Sandals.

Mrs. Liz Sandals: You mention at the bottom of your presentation that we should collect enough information. Are you saying the committee should collect information or that under Bill 101 we should be collecting additional information? Are you suggesting that the bill should be amended?

Dr. Allan Gordon: That's too upper for me to really think about. All I know is that if we're going to make changes, we have to know what's really going on. We have to get real-time surveillance of what's happening in the community. Who's dealing drugs? How do patients get their drugs? Who's selling drugs? What happens in poison control centres? What happens in emergency departments? We don't have any of this information. We need something that will do that.

Simply looking at prescriptions and looking at what happens I don't think is enough. Actually, when I'm looking at volume, should so many drugs be prescribed all at once? Should 200 OxyContin tablets be prescribed all at once? They should be limited. So there's a number of things that we need to know.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you, Dr. Gordon, for your deputation.

That is the final deputation of the day. Just to remind members of the committee, amendments must be filed by 10 a.m., Friday, October 22, as the new number 10 point amendment and number 11. We'll be meeting here for clause-by-clause consideration on Monday, October 25 and October 26.

If there's no further business, the committee is adjourned.

The committee adjourned at 1702.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mrs. Christine Elliott (Whitby–Oshawa PC)

M^{me} France Gélinas (Nickel Belt ND)

Mrs. Liz Sandals (Guelph L)

Clerk pro tem / Greffier par intérim

Mr. Trevor Day

Staff / Personnel

Ms. Elaine Campbell, research officer,
Legislative Research Service

CONTENTS

Monday 18 October 2010

Subcommittee report	SP-257
Narcotics Safety and Awareness Act, 2010, Bill 101, Ms. Matthews / Loi de 2010 sur la sécurité et la sensibilisation en matière de stupéfiants, projet de loi 101,	
Mme Matthews	SP-259
Institute of Canadian Justice	SP-259
Mr. Gerald Parker	
Dr. Alexander Franklin	SP-261
Ontario College of Family Physicians	SP-262
Ms. Jan Kasperski	
Mr. Bill Robinson	SP-263
College of Physicians and Surgeons of Ontario	SP-265
Dr. Jack Mandel	
Ms. Louise Verity	
Dr. Philip Berger	SP-267
Ontario Pharmacists' Association	SP-268
Mr. Allan Malek	
Ms. Peggi DeGroote	SP-270
Action PNP	SP-272
Ms. Janice Frampton	
Dr. Ramesh Zacharias	SP-273
Medavie Blue Cross	SP-275
Mr. Martin Haynes	
Ms. Ann Foran	
Centre for Addiction and Mental Health	SP-276
Ms. Beth Sproule	
Addictions Ontario	SP-277
Ms. Deborah Gatenby	
Dr. Angela Mailis-Gagnon	SP-279
Registered Nurses' Association of Ontario	SP-281
Ms. Maureen Cava	
Dr. Rick Glazier	SP-282
Dr. Allan Gordon	SP-284

SP-13



SP-13

ISSN 1710-9477

**Legislative Assembly
of Ontario**

Second Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 39^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 26 October 2010

**Journal
des débats
(Hansard)**

Mardi 26 octobre 2010

**Standing Committee on
Social Policy**

Narcotics Safety
and Awareness Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur la sécurité
et la sensibilisation
en matière de stupéfiants

Chair: Shafiq Qaadri
Clerk: Susan Sourial

Président : Shafiq Qaadri
Greffière : Susan Sourial

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 26 October 2010

Mardi 26 octobre 2010

*The committee met at 1608 in committee room 1.*NARCOTICS SAFETY
AND AWARENESS ACT, 2010
LOI DE 2010 SUR LA SÉCURITÉ
ET LA SENSIBILISATION
EN MATIÈRE DE STUPÉFIANTS

Consideration of Bill 101, An Act to provide for monitoring the prescribing and dispensing of certain controlled substances / Projet de loi 101, Loi prévoyant la surveillance des activités liées à la prescription et à la préparation de certaines substances désignées.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. As you know, we're here for clause-by-clause consideration. If there are no general comments at this time, we can begin with the presentation of amendments, and I believe we have NDP motion number 1.

Je passe la parole à M^{me} Gélinas.

M^{me} France Gélinas: I move that clause 1(a) of the bill be amended by adding "and addiction" at the end.

Basically, the idea is that there is nothing in this bill that talks about the treatment of addiction and that acknowledges that there is a role for some of those controlled substances in the treatment of addiction. So to put it in there is to include it.

The Chair (Mr. Shafiq Qaadri): Further debate? Comments? Ms. Sandals.

Mrs. Liz Sandals: This is almost identically worded to a government amendment, so we're quite happy to support this one.

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. Jones.

Ms. Sylvia Jones: I'm happy to support since it is identical to the PC motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of NDP motion 1? Those opposed? NDP motion 1 carried.

I'll take it as a withdrawal of the duplicate amendments, if that's agreeable?

Ms. Sylvia Jones: Yes.

The Chair (Mr. Shafiq Qaadri): Shall section 1, as amended, carry? Carried.

There are no amendments received to date for section 2, so I'll take that to a vote now, unless there's any comments. Shall section 2 carry? Carried.

Section 3, government motion 3: Ms. Sandals.

Mrs. Liz Sandals: I move that section 3 of the bill be struck out and the following substituted:

"Application

"3. This act does not apply to any person provided for in the regulations."

I think I need to explain a little bit about what's going on here. The issue of abuse and misuse of prescription narcotics and other controlled substances affects all parts of our health care system, including hospitals. We feel that it's important to address this issue across the system.

One of the issues that was actually raised by the Liberal members of the select committee when we had a look at the bill was that it excluded hospitals. The advice that we gave was that that wasn't really appropriate, that there could be problems in the emergency rooms of hospitals and prescribing issues within hospitals as well. So our advice was that we felt that hospitals should be included.

So what we're doing in striking out the current wording of section 3 is the explicit exemption of hospitals. What we are doing is leaving in the possibility to exclude persons or places in which persons practise by virtue of regulation. The issue here is that the prescribing protocols are quite different in hospitals—not in what you should prescribe but in the way in which it is recorded. It's a bit more technically difficult to capture the information as it flows in hospitals, so there does need to be a consultation with hospitals as to how to bring them within the scheme of the act. So what we're doing is removing the legislative exemption but allowing for there to be a regulatory exemption while we work with hospitals to figure out how to best bring them in.

When we get to the regulatory section, there will be a bit of fine-tuning there as well to make sure that we can do that appropriately. But that's the idea behind the act, that we really do need to capture prescribing and dispensing throughout the health sector and that hospitals are an important part of that.

The Chair (Mr. Shafiq Qaadri): Further comments? If there are none, we'll proceed to the vote. Those in favour of government motion 3? Those opposed? Motion 3 carried.

Shall section 3, as amended, carry? Carried.

We'll proceed to government motion 4: Ms. Sandals.

Mrs. Liz Sandals: I move that subsection 4(2) of the bill be amended by adding the following paragraph:

"1.1 Collecting, using and disclosing information collected under this act in accordance with this act, and co-

operating with other organizations, including colleges under the Regulated Health Professions Act, 1991, to achieve the purposes of this act.”

This amends the section dealing with the section of the powers and functions of the executive officer, and it speaks to the proposed use of the narcotics database to support education, training and practice standard development. Specifically, it speaks to the role of the colleges of the regulated health professions. You will recall that when the college presented to us, it wished to have some recognition of its role, and this is the way in which we are proposing to acknowledge their role within the act.

The Chair (Mr. Shafiq Qaadri): Any further comments. Mrs. Elliott.

Mrs. Christine Elliott: We are pleased to support this amendment that was recommended by the college, so we’re in agreement.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: I too was there when the college made their point. They were asking to clarify the role of the college, and they were also asking that the information that could be shared be further explained, that it be clarified also. I am not sure if this does it fully.

I guess I would go to legislative counsel. Is it your impression that it does clarify the role of the college and clarifies the information that should be shared?

The Chair (Mr. Shafiq Qaadri): Who are we directing this question to?

Interjection.

The Chair (Mr. Shafiq Qaadri): Ministry staff, allons-y. Welcome. I’m sure you know the protocol. Please introduce yourself, your position etc., and go ahead.

Ms. Diane McArthur: Diane McArthur. I’m the assistant deputy minister for the Ontario public drug program and the executive officer.

Yes, within the context of the bill, by amending this section to include the reference, it does meet the requirements that were requested.

M^{me} France Gélinas: Okay. Because the way the college explained it to me is that they have a role to protect the public—this is what they’re there for—and when they go ahead and try to carry out this mandate, they often run into a problem if things are not spelled out properly. They then end up doing a whole pile of work just to show that, yes, it is within their mandate and it is within their role. So how do you see them gaining access through this paragraph to the information that should be shared?

Ms. Diane McArthur: What this section does is more explicitly recognize the role of the regulatory health professions in the responsibilities under the act, so that they can always point to this more explicitly in dealings with the ministry to gain access to any information that they deem they need in order to fulfill their obligations.

We believe that this clarifies it sufficiently with this bill, and then you take it in the context of the Regulated Health Professions Act, the two working together—by

making the reference explicit, it makes it clear enough for them to overcome any issues with the ministry.

M^{me} France Gélinas: Okay.

The Chair (Mr. Shafiq Qaadri): Further comments before the vote? If not, we’ll proceed to the vote. Those in favour of government motion 4? Opposed? Government motion 4 carried.

Shall section 4, as amended, carry? Carried.

We’ll proceed to section 5. There are a number of amendments, beginning with NDP motion 5.

M^{me} France Gélinas: I move that clause 5(5)(a) of the bill be amended by adding “is determining whether to prescribe a monitored drug to the person or” after “if the prescriber”.

I hope everybody can follow that. Basically, what this is trying to do is make sure that before a prescriber—a physician, dentist or nurse practitioner—prescribes one of those substances, they have access to what has been prescribed before; that they have information on this particular patient who stands in front of them before they write the prescription rather than after the prescription has already been written, and then they realize that there has been double-doctoring or there has been abuse someplace else.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Sylvia Jones: We obviously support this because we have put in a similar motion.

The Chair (Mr. Shafiq Qaadri): Obviously, yes. Ms. Sandals.

1620

Mrs. Liz Sandals: We agree with this in principle, and in fact the wording that you’re proposing here, we understand, is the wording that the college was proposing.

When we pursued the comments that Dr. Glazier had made when he was presenting here about how he had access to this information, when we looked into it, we realized that some doctors, given their practice location and the software that’s used in that particular practice location, would have access to the information easily. In other situations, physicians do not have access to the information because it’s just technically difficult.

Again, we’re getting into this area of differential proclamation. Rather than putting the thought of access after the fact and access before the fact all in one clause, we’re going to keep the existing clause and propose to add a separate before-the-fact clause, again so that we can have some differential proclamation and sort out the technical issues and then proclaim the before-the-fact.

We agree with what you’re proposing, with what both opposition parties are proposing, in principle; there are just technical reasons why we’re going to oppose this, because we think it will be easier to administer if, quite frankly, we do it our way. But it isn’t because we don’t like what you’re saying; it’s just that it’ll be easier to administer.

The Chair (Mr. Shafiq Qaadri): I have one obvious agreement and one agreement in principle. Are we ready

to proceed to the vote, then? Those in favour of NDP motion 5? Those opposed? Motion 5 carries.

May I take it as—

Interjections.

The Chair (Mr. Shafiq Qaadri): Three to five? Oh, I didn't notice. Okay.

Ms. Sylvia Jones: Actually, it was three to four. I think one of the members didn't vote.

The Chair (Mr. Shafiq Qaadri): Do you mind if we redo that? Those in favour of NDP motion 5? Those opposed? Clearly defeated this time.

PC motion 5.1, which is a duplicate: The floor is available, or shall we withdraw it?

Ms. Sylvia Jones: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Withdrawn.

NDP motion 6.

M^{me} France Gélinas: This, again, deals with section 5 of the bill.

I move that section 5 of the bill be amended by adding the following subsection:

“Disclosure to health profession colleges

“(6) Where personal information collected by the minister or executive officer under subsection (1) gives rise to concerns regarding the prescribing or dispensing practices of a member of a health profession, the minister or executive officer, as the case may be, shall give a report to the registrar of the member's health profession college, which shall include,

“(a) the member's name;

“(b) the nature of the concern;

“(c) the information giving rise to the concern; and

“(d) any other relevant information.”

Basically, we have in Ontario a system where our health care professionals are governed by their college. Their college has an important role to play in protecting each and every one of us. In order for them to carry out this duty, they need access to information in a way that respects the patients and the right of their members also. If there is a concern with one of their members, the college needs to know. It needs to be clear and spelled out as to what information they're allowed to have in order to protect the public and do their work.

We already know that it is an issue that if a member is being investigated, they spend a lot of time, effort and energy limiting the amount of information that their college can use against them. This is to set out, right from the start, the information that the college is allowed to have on their members.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: Our concern would be that the bill, as currently structured, sets up a system of permissive disclosure so that when the information on the database has been analyzed, where there is a serious concern, the minister or the executive officer has the authority, as permitted, to disclose the information to one of the colleges, amongst others.

Our concern, is this sets up a mandatory disclosure system which actually is contrary to the way in which the

bill is currently structured and which gives rise to additional privacy concerns under health information privacy, so that the mandatory disclosure may be inconsistent with that legislation. In particular, because part of what will happen here may be education or simply, “Did you know that we need to resolve this issue?”, it isn't necessarily a disciplinary issue. Some of the concerns that are raised may not, in fact, be disciplinary; they may be able to just be dealt with directly with the prescriber or the pharmacist without requiring mandatory disclosure to the professional college.

As I say, it does significantly change the framework of the bill, which is permissive disclosure, to mandatory disclosure. For that reason, we will not be supporting this.

The Chair (Mr. Shafiq Qaadri): Ms. Elliott?

Mrs. Christine Elliott: We are generally in agreement with the amendment as suggested by the college, as you can see by the subsequent amendment, which is a PC amendment. However, we had a further provision that was built into it which would have allowed more two-way communication with the college. Therefore, we can't support it, just because it doesn't contain the full text of what the amendments were from the college.

M^{me} France Gélinas: I would say that some of the worries about mandatory disclosure that the member talks about are going to be looked after in subsequent amendments that are coming, especially with regard to the protection of privacy of individuals. I feel pretty confident that this would give colleges direct and clear access to information about their members. We can certainly strengthen Bill 101 by some of the privacy amendments that are coming soon.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote, then. Those in favour of NDP motion 6? Those opposed? Motion 6 is defeated.

PC motion 6.1: Ms. Elliott.

Mrs. Christine Elliott: I move that section 5 of the bill be amended by adding the following subsections:

“(6) Where information obtained by the minister or the executive officer gives rise to a concern regarding the prescribing or dispensing practices of a regulated health professional, the minister or the executive officer, as the case may be, shall prepare and submit a report to the registrar of the member's health profession college, which includes,

“(a) the name of the member;

“(b) the nature of the concern;

“(c) the information giving rise to the concern; and

“(d) any other relevant information.

“(7) Where a health profession college makes inquiries of the minister or the executive officer regarding the prescribing or dispensing practices of one of its members, the minister or the executive officer, as the case may be, shall disclose to the college any information collected under subsection (1) relating to the member's prescribing or dispensing practices.”

Again, this just allows for communication where prescribing or dispensing concerns have been raised.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: As for the previous similar motion.

The Chair (Mr. Shafiq Qaadri): Madame G  linas?

M^{me} France G  linas: I would certainly support this. It makes the two-way communication clearer and it certainly takes away any ambiguity as to what information the ministry can share with the college and the circumstances of that sharing.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of PC motion 6.1? Those opposed? PC motion 6.1 is defeated.

Government motion 7: Ms. Sandals.

Mrs. Liz Sandals: I move that section 5 of the bill be amended by adding the following subsection:

"Disclosure, prescriber considering prescription

"(6) The minister or the executive officer may disclose to a prescriber personal information respecting a person, if the prescriber is determining whether to prescribe a monitored drug to the person."

This is the clause I promised you before.

1630

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote, then. Those in favour of government motion 7? Those opposed? Government motion 7 is carried.

NDP motion 8: Madame G  linas.

M^{me} France G  linas: I move that section 5 of the bill be amended by adding the following subsection:

"Same

"(7) Where a health profession college makes inquiries of the minister or the executive officer about the prescribing or dispensing practices of a member of the health profession college, the minister or executive officer, as the case may be, shall disclose to the college any information collected under subsection (1) relating to the member's prescribing or dispensing practices."

This is similar to the motion that the PCs had put forward. We had separated it to really show that this is a two-way communication. Not only may the ministry share, but it clarifies what information will be available if there is an inquiry from the college regarding one of their members. There will be a wealth of information being collected. It can be shared in a way that protects people's right to privacy but at the same time allows the college to do their work, which is protecting the public.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: This particular amendment actually raises either greater concerns around privacy because, unlike the disclosures by the minister or the executive officer, which are triggered by the information in the database, this doesn't seem to be triggered by anything in particular other than that the college wants to know about this particular member's prescription or dispensing practices. Because it's mandatory that the minister or executive officer shall respond, and there's no limit on this—it's sort of an unfettered response—we

think that this is actually quite an intrusion into the protection of privacy as it exists in the other act.

We would point out, however, that if there is actually an ongoing investigation under the Regulated Health Professions Act—so you've got a formal investigation going on—in fact, the college already has the power and the authority under that act to compel the disclosure of information. So it isn't that where there's a legitimate investigation going on, they can't get the investigation.

But this is a very unfettered power for mandatory information.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: I think the reality is, we give that power to the college as a regulatory body. For the parliamentary assistant to suggest that the college would go on unnecessary hunts of their own members is a little disconcerting. I obviously support this motion. I think it's a good way to communicate on both sides of the issue.

The Chair (Mr. Shafiq Qaadri): Madame G  linas.

M^{me} France G  linas: It really brings us back to the system that we have about the self-regulatory model. We have set this up. It is there to protect the public. In order for them to carry out those important tasks, duties and responsibilities, they need access to some information. When they make inquiry of the government—I'll support what my colleague just said—they do this because they're trying to protect the public, not because they're chasing down their own members; they are trying to protect the public. This clarifies that they are allowed to have access to that information.

I don't believe that they already have that power, and if they do, it has been and continues to be challenged by some of their members, who want to restrict the amount of information their college can use to carry out their duties.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote on NDP motion 8. Those in favour of NDP motion 8? Those opposed? NDP motion 8 is defeated.

We'll now proceed to NDP motion 9.

M^{me} France G  linas: All right. I move that section 5 of the bill be amended by adding the following subsection:

"Discretionary disclosure

"(8) In determining whether to disclose personal information under this section, the minister or the executive officer, as the case may be, shall consider any threats to public safety that may result from the disclosure and whether the disclosure will serve the purpose stated in section 1, and shall not disclose information if the risk to public safety resulting from the disclosure outweighs the benefits."

This is here again an opportunity to give some parameters regarding the disclosure and to respect the fact and the importance of public safety. It also serves to clarify that when the minister is deciding whether to disclose information, public safety shall be the precedent. The ministry will continue to use its judgment, and public safety will always overrule.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Liz Sandals: My sense here is that perhaps this was originally, in thought, attached to the mandatory disclosure in motions 6 and 8 and was trying to put some wraps around mandatory disclosure, but we're not discussing mandatory disclosure; we're considering the bill now as originally drafted with the permissive disclosure. This seems to be potentially constraining the information that you just said you wanted to have it mandatory to disclose.

My other observation is that I'm not sure why public safety would be pulled out, because you might argue that the entire intent of the bill is to support public safety so that we don't have the misuse and abuse of prescription narcotics, and that, in and of itself, is a plus to public safety.

Anyway, I don't think this is actually necessary because, given we're back to permissive disclosure, this really isn't required. So we will be opposing this, Chair.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: We would support this amendment, which is substantially in the same form and content as our subsequent amendment with respect to disclosure and setting some parameters on the discretion allowed.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France G  linas: Here again, we come back to the fact that we have a self-regulatory model that is there to protect the public. What this amendment speaks to is really that that protection of the public trumps everything else. So when we say that public safety could be used as a reason for the government to not share information, it's because the role of the colleges is just that: It's public safety. It's to protect the public, and that was added there for the same reason.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the vote on NDP motion 9. Those in favour of NDP motion 9? Those opposed? I believe NDP motion 9 has been defeated.

We'll proceed to PC motion 9.1.

Mrs. Christine Elliott: Mr. Chair, given the defeat of the previous motion, which was substantially the same form and content as our motion, we can see where this is going, so we will just simply withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the consideration of the section. Shall section 5, as amended, carry? Those in favour? Those opposed? Carried.

Section 6: PC motion 9.2.

1640

Mrs. Christine Elliott: I move that section 6 of the bill be amended by adding the following subsection:

“(2) The notice required under subsection (1) shall set out:

“(a) the personal information collected by the minister or the executive officer;

“(b) the purposes for which the personal information may be used by the minister or the executive officer;

“(c) the purposes for which and the circumstances in which the personal information may be disclosed by the minister or the executive officer;

“(d) the persons or organizations to whom the personal information may be disclosed by the minister or the executive officer;

“(e) the length of time the personal information may be retained by the minister or the executive officer;

“(f) the administrative, technical and physical safeguards that have been implemented by the minister or the executive officer to protect the privacy of the individuals whose personal information was collected; and

“(g) the name, title and contact information of a person to whom inquiries or concerns respecting the collection, use and disclosure of personal information may be directed.”

We're bringing this amendment forward as recommended by the Information and Privacy Commissioner. I must say that I was a little bit surprised when we did get into the review of this act because it was more or less represented that all of the concerns with respect to the Information and Privacy Commissioner had been dealt with before this bill was brought forward, but given the substantial written material that was provided to us by the commissioner, it's apparent that, in fact, her current concerns haven't been addressed. So this is one of a series of amendments that we'll be bringing forward to bring forward those issues and hopefully have them supported.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 9.2? Ms. Sandals.

Mrs. Liz Sandals: This is, in my understanding, the notice that would go in public places like a pharmacy or a doctor's office to inform patients about what they can expect to happen in the context of this bill.

Number one, the ability to make a regulation defining the content is already specified in the act under clause 17(1)(e). This is one of those things where, over time, there may be some need to vary the content of the notice somewhat as circumstances change, technologies change, whatever. For that reason, we feel that this is something that is more appropriately dealt with in regulation.

The other thing is, given that this is information that is going to be publicly posted—in fact, what is set out here is what should be publicly posted. It looks like it is quite long and technical, which isn't necessarily the best way to get the public's attention. Some brief, plain-English description of what can happen under this act is probably a better way to inform the public than a long, technical explanation. We will be opposing this.

The Chair (Mr. Shafiq Qaadri): Thank you. Madame G  linas?

M^{me} France G  linas: I think this is important enough that it is worth being laid out in the bill rather than in subsequent regulation like clause 17(1)(e), I think, talks about; it will be found in regulation. If it needs to change, then the legislation can be amended.

As far as the way that it is set out, I would trust that the privacy commissioner knows a thing or two about privacy and that if those are the recommendations, that

they have been thought out, tested and shown to give results.

As much as I support the colleges getting information so that they can do the work with their members that would protect the public, I would say that I'm even more concerned about the government having personal health information about us—about each and every one of us—that we'll be prescribed those drugs at some point in our lives, I take it. It makes it a lot safer for all of us if this amendment is put in. It is clear, it is detailed, it comes from a very knowledgeable source that knows about privacy, and it has been put there for us to protect our privacy, so I would certainly support what has been put forward in this motion.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. If there are no further comments on PC motion 9.2, we'll proceed to the vote. Those in favour of motion 9.2? Those opposed? PC motion 9.2 is defeated.

Shall section 6 carry? Carried.

We have received no motions to date for section 7, so we will proceed to the vote, unless you have comments.

Shall section 7 carry? Carried.

We'll proceed now to section 8: PC motion 9.3, Mrs. Elliott.

Mrs. Christine Elliott: I move that paragraph 1 of subsection 8(1) of the bill be amended by striking out "section 10 or 11" at the end and substituting "subsection 10(1) or 11(1)".

Again, Chair, this was recommended by the Information and Privacy Commissioner—just an amendment really for clarification purposes.

The Chair (Mr. Shafiq Qaadri): Are there any comments on this? If not, we'll proceed to the vote on PC motion—

Mr. Khalil Ramal: Chair—

The Chair (Mr. Shafiq Qaadri): Yes. Madame Gélinas.

M^{me} France Gélinas: The comments are worth repeating. This bill will give members of the government access to very private, personal health information. We were told that an at-length conversation and discussion had taken place with the privacy commissioner and that this bill basically had been read, supported and agreed upon by the privacy commissioner. But much to my surprise, that wasn't the case at all. The privacy commissioner has made some substantial requests for change. I think we owe it to the people of Ontario to respect the work of one of the commissioners of this Legislature and include this paragraph in section 8 of the bill.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 9.3?

Mrs. Liz Sandals: This just gives some further clarification to where some of the rules are laid out, so we're fine with this amendment.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of PC motion 9.3? Those opposed? PC motion 9.3 carries.

We will proceed now to NDP motion 10, Madame Gélinas.

M^{me} France Gélinas: I move that section 8 of the bill be amended by adding the following subsection:

"(4) Despite subsection 36(1) of the Regulated Health Professions Act, 1991, a person mentioned in that subsection may disclose any information required for the administration of this act."

Basically, what this talks about is clearing up the confusion about the roles of the regulatory colleges and the need for them to have access to information in order to do their work.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 10?

Mrs. Liz Sandals: This isn't a bill that amends the Regulated Health Professions Act, so I'm a little bit surprised that we've suddenly gotten into amending the regulations—well, I guess we're not amending, but we're sort of overriding, if you will. We're not amending, obviously, but we're overriding, and once again, I think this does raise privacy issues. As far as we're concerned, the disclosure, as set out in the act, is clear; this additional clarification isn't required.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote, unless you have comments.

Mrs. Christine Elliott: We would agree with this amendment. It is important to clarify which act is paramount for the purposes of disclosure.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of NDP motion 10? Those opposed? NDP motion 10 is defeated.

We'll proceed now to PC motion 10.1.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(4) Before directing a prescriber, dispenser or operator of a pharmacy to disclose personal information under subsection (1), the minister or the executive officer, as the case may be, shall submit a proposal to the Information and Privacy Commissioner."

Again, this amendment was suggested by the Information and Privacy Commissioner. There is a series of amendments that relate to this particular provision, just allowing the Information and Privacy Commissioner to be involved, to make recommendations regarding disclosure, and if disclosure is to be allowed, which form it shall take. We believe this is important in order to safeguard privacy rights under the act itself.

1650

The Chair (Mr. Shafiq Qaadri): Are there any further comments on the PC motion? Ms. Sandals.

Mrs. Liz Sandals: As you noted, there's a series of amendments coming up here that are related to material from an assistant in the Information and Privacy Commissioner's office. I must say that we were as surprised as you were to see that particular document because, as the minister reported, there were extensive discussions with the Information and Privacy Commissioner before the bill was tabled. There were pre-tabling amendments, if I can put it that way, or pre-tabling changes made to the bill before it was tabled, so we were a little bit surprised to see this catalogue of additional concerns raised.

The other thing I would like to note is, I find it a little bit odd that the amendments that we have dealt with so far have been largely focused on mandatory disclosure going above and beyond the disclosures that were originally set out in the bill and which would further intrude on privacy rights. I figure that I've been sort of defending privacy rights, and now we're doing this complete 180-degree turn, which is actually a whole series of amendments that are actually extending privacy rights and, in some cases, would virtually constrain the minister and the executive officer in their role of analyzing the information they receive and disclosing it to the appropriate regulatory colleges, or dealing with anomalies that they find in the data.

In many cases, it would appear that some of these amendments would almost take away the functionality of what it is the bill is actually trying to achieve in terms of collecting the data, identifying misuse and abuse, and then dealing either with the individuals or, where it looks that the misuse or abuse may be deliberate, dealing with the professional colleges or even potentially the criminal system.

As I say, there seems to be a whole series of motions here that are related to dramatically extending privacy issues within the bill. I suppose the bottom line is that this whole scheme of giving the ministry the authority to collect the information, giving the ministry the authority to analyze and monitor the information, giving the authority to the minister or the executive officer to disclose the information as necessary to get some resolution to misuse and abuse, is something that has, in principle, been approved by all three parties. It's something that the select committee felt we needed to do something about. It's something that the college of physicians and surgeons said we need to do something about. It's something that the minister's drug strategy committee has said we need to do something about.

Our sense is, if the Legislature and the community are in consensus that we need to do this for the sake of the health of our citizens, then we don't need to put these further constraints around it to make the scheme somewhat dysfunctional.

That's rather a long explanation, but it's the basic rationale. There are different details here, but the whole "trying to box in the legislation," we will be opposing.

The Chair (Mr. Shafiq Qaadri): Further comments? Madame Gélinas.

M^{me} France Gélinas: Here again, I don't see what we're trying to do with those motions as limiting the bill; I see it as doing our work. We have a duty to protect peoples' privacy, and this is what the series of amendments is trying to do. At the same time, we have a self-regulating system of colleges for our health professionals. The clearer we make this relationship as to how they can access information, when, what will be shared—on one hand, we're asking for clarity so that the colleges can do their work. With this series of amendments, we're trying to protect the public.

The college is there to protect the public, but the laws that we pass should always be respectful of the fact that

we are now introducing a bill that will collect very personal health information about millions of Ontarians. Because it is personal health information, we have developed in this House a privacy commissioner, somebody who basically is the expert in this field and is there to protect the privacy of Ontarians. We are introducing a bill that deals with very private issues for millions of Ontarians. To be respectful of the advice of our own expert in privacy to me is the minimum that we can do.

This bill, to me, has been a little bit of a rush job. We were told—well, I certainly believed it—that the work had been done with the privacy commissioner. Right out, when I heard about what we're doing—we are collecting health information about Ontarians, where you will actually be able to identify the individual person, the drugs they were prescribed, the quantity, the number of times, and we are making that information available to people in the government. The risk to the public is huge, but I had taken heart in the fact that the minister started her address by explaining the depth of the relationship that had taken place with the privacy commissioner. That kind of put my fear aside, that this work had been done. But then, to everybody's surprise, we get the privacy commissioner coming forward and ringing five-star alarm bells about the bill, basically stating that we are putting people's privacy about health matters at risk. She is making recommendations as to how we can protect and limit this risk, and here we are, tossing all of this aside.

As I said, it seems like a rush job. We did not have a chance to hear from the privacy commissioner directly because we were told that that work had been done. And now, we have to rely on what we were given in writing to make the amendments to that bill so that it serves us well. It is not going to serve anybody well if we end up basically putting at risk people's right to privacy when it comes to health matters.

I know that there is a series of motions that deals with the privacy commissioner's serious concerns. We cannot be told on one hand, "Don't worry; it has been looked after," and then get a letter that says, "No, this bill needs to be changed." We have a duty to change this so that at the core of it, we do no harm. It's all fine and good to try to help people and improve their health, but at the beginning, do no harm. This is what the privacy commissioner is trying to tell us, that we're not going to achieve anything good or great or quality care if we don't respect people's privacy. This is not what Ontarians want.

1700

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Elliott?

Mrs. Christine Elliott: The protection of personal health information is so important. Frankly, when this bill came forward, that was one of our paramount concerns, and it was stated on the record. We were assured that, basically, this had been vetted and that there were no significant concerns. So when we received this package from the Information and Privacy Commissioner, it did ring alarm bells, as Ms. Gélinas said.

I think we would do well to listen and to read and to consider the recommendations that the Information and

Privacy Commissioner has made, because she's certainly suggesting in her correspondence with us that we don't have the balance right yet. We need to really reflect on that, because if we're going to really have an effective piece of legislation, we want to make sure that it affords the protections needed all the way around.

Rather than constrain the minister and the executive officers from dealing with what needs to be done under this bill, it would seem to me that the Information and Privacy Commissioner is trying to suggest that there may be other options that may need to be considered, short of disclosing the information that is being sought by the minister, and that there are other ways to do it. She's simply appealing for some consideration by her office of the best way possible to deal with the release of information.

I would urge the government members to reconsider their position on this amendment.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? We'll proceed to the vote. Those in favour of PC motion 10.1? Those opposed? PC motion 10.1 is defeated.

We'll proceed now to PC motion 10.2.

Mrs. Christine Elliott: Well, I'll try it, Chair.

I move that section 8 of the bill be amended by adding the following subsection:

"(5) Within 30 days after the Information and Privacy Commissioner receives a proposal described in subsection (4), he or she shall review the proposal and may comment in writing on the proposal."

The Chair (Mr. Shafiq Qaadri): Before you proceed, Mrs. Elliott, it is with extreme regret that the Chair informs you that the particular motion is out of order, as it was dependent on the life of PC motion 10.1, which has since expired.

Mrs. Christine Elliott: Chair, may I presume that the rest of the amendments that relate to 10.1 will similarly be ruled out of order?

The Chair (Mr. Shafiq Qaadri): You may presume so. May I take it, then, that you are withdrawing 10.2, 10.3 and 10.4?

Mrs. Christine Elliott: Regrettably, since they will be ruled out of order.

The Chair (Mr. Shafiq Qaadri): With generalized regret, yes.

We'll now proceed to PC motion 10.5. The floor is still yours.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(8) The minister or the executive officer shall not direct a prescriber, dispenser or operator of a pharmacy to disclose personal information if other information will serve the purpose of the disclosure."

Again, the purpose of bringing forward this amendment is to ensure that only the least amount of information possible to fulfill the requirements of the act is submitted.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 10.5? Ms. Sandals?

Mrs. Liz Sandals: Again, as I say, I'm a little bit mystified by spending the first half of our time discussing mandatory disclosure, which goes above and beyond the original intent of the bill, and now discussing constraints on the disclosure that overturn the ability to disclose.

In particular, the whole reason for the bill is that the government does not currently have the authority to collect the information at all in some cases, and does not currently have the ability to collect the information for the specific purpose of looking at use and abuse of prescription narcotics in other cases. By definition, the government doesn't otherwise have the information available, or we wouldn't be having the bill in the first place.

So we are opposed to this particular amendment. Again, it seems to totally get in the way of the actual purpose of the bill.

The Chair (Mr. Shafiq Qaadri): Comments? Madame Gélinas?

M^{me} France Gélinas: To me, again, it is important to set the tone that we respect people's privacy. We have an expert who, as time goes on, stimulates radical changes in the way that we do things and sometimes makes minor changes. But what those motions talk to is the fact that we respect people's right to the privacy of their health information. This is what this amendment talks to. It talks about, "If other information serves the purpose of the disclosure, then use that."

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 10.5? Those opposed? PC motion 10.5 is defeated.

PC motion 10.6: Ms. Elliott.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(9) The minister or the executive officer shall not direct a prescriber, dispenser or operator of a pharmacy to disclose more personal information than is necessary to meet the purpose of the disclosure."

This is a variation on the previous amendment in the sense that it's putting a limit on personal disclosure, just to limit it to what is absolutely necessary to fulfill the purposes of the act.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 10.6? Ms. Sandals?

Mrs. Liz Sandals: If we look at the particular sections where it is laid out what it is that people will be required to disclose, it's actually quite clearly laid out. Presumably, the way the bill will work is that prescribers will be expected to submit the information that is laid out clearly. Dispensers will be required to submit the information that is clearly laid out in the bill.

To suggest that the minister or the executive officer will somehow be differentially deciding what information that different pharmacists or different doctors or dentists or whatever should send, absent having even seen the information—it just doesn't seem to make sense in the normal operation or intent of the bill.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: We know that we are creating this database of very personal health information on millions of Ontarians. We know that a series of prescribers will get some access to this, a series of dispensers will get some access to this and a series of government people will get some access to this, and then it will be shared with the colleges and other third parties, as is fitting.

This is the type of sober second thought that forces you to look at what is necessary to meet the purpose of the disclosure. Once information is collected, it becomes easy, physically, to share it. Therefore, you don't always ask yourself, "Does all of it need to be shared with each and every one—with each of the prescribers, with each of the dispensers etc.?" It is, to me, a safeguard to the people of Ontario, whose very personal health information will now be collected.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 10.6? Those opposed? Motion 10.6 is defeated.

Shall section 8, as amended, carry? Carried.

We've received no amendments to date for sections 9 to 12, inclusive. If it is the will of the committee, we will proceed to consider those as a block. Shall sections 9 to 12, inclusive, be carried? Carried.

Section 13, PC motion 10.7: Ms. Elliott.

Mrs. Christine Elliott: I move that subsection 13(2) of the bill be struck out and the following substituted:

"(2) An inspector shall not enter a prescriber's or a dispenser's place of practice for the purpose of determining compliance with the requirements of this act without first obtaining a warrant and without giving notice to the prescriber or dispenser of the inspector's intention to enter the prescriber's or dispenser's place of practice."

This was a recommendation suggested by the OMA to require a warrant before an inspector would proceed to exercise their powers under the act.

The Chair (Mr. Shafiq Qaadri): Comments on 10.7? Ms. Sandals?

Mrs. Liz Sandals: It's actually quite unusual to require a warrant to carry out an inspection. I think this is one of the places where, as Madame Gélinas mentioned earlier, from the point of view of the College of Physicians and Surgeons, they wanted mandatory disclosure because sometimes members resist.

1710

I think we need to be clear that this is a routine inspection; it isn't a criminal investigation. Normally, when you are dealing with a routine inspection, just for the sense of monitoring compliance under a regulation, you do not require a warrant. Warrants are usually only needed when there is a suspicion that a statute is being violated and a prosecution is likely to result—because then you would obviously need the warrant for court purposes—or where there is an invasion of privacy at a person's home.

There would be all sorts of instances in provincial law where there are inspectors, and inspectors do not require warrants to do routine inspections.

For example, because this is the one that maybe most closely parallels the subject matter that we are dealing with, under regulations under the Medicine Act, an inspector for the College of Physicians and Surgeons of Ontario has the right already to inspect a physician's records without a warrant.

That would be the most parallel. One is from the ministry and one is from the College of Physicians and Surgeons, but in either case, you would be looking at the prescription records. There is not, in terms of routine audits, a warrant required for inspections.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: This is very important to the difference that I have been trying to make. A college is a self-regulatory body that protects the public by doing the work with their members. We are not talking about a college working with its membership anymore; we're talking about a government employee. This is what I have been trying to separate from the start.

I want the colleges to be in a position to do what we set them up to do: to protect the public. They do this by monitoring their members. We have agreed to set up this system of self-regulation because it works and because it's in line with the values of Ontarians that members of a college are monitored by their college, get their licence from their college and are disciplined by their college.

We're not talking about an inspector from the college here; we're talking about a government employee who will enter a physician's office, a nurse practitioner's clinic or a dental office. This is groundbreaking. In all of the laws of Ontario right now, very few government employees have the right to enter a doctor's office and ask for information that is personal health information about specific patients. Think about what we're about to do. We are setting up government employees to go into physicians' offices, nurse practitioners' clinics, dental offices and pharmacies. We are setting up something that has never existed before. Before, it was always your college. It was always the colleges that looked after their members. Now it will be a government employee who is armed with a database full of personal health information about millions of Ontarians. All this does is give us a little bit of protection.

Let the colleges do the work of investigating their members. They are good at it. This is what we set them up to do. If a government employee ever needs to do any of this, let's make sure we protect ourselves. This is what this motion sets out to do.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: With respect, it was not the college that said, "We think you should get a warrant"; it was the OMA. The college did not complain about this part of the legislation.

With respect, if what any of the colleges were currently doing was working, we would not have had all the colleges coming in here saying, "Please set up this database because we need this central collection of the information so we can put it all together and monitor it.

We need the Ministry of Health to take on this role because we, as the individual colleges—none of us have the information in and of our own particular area in which we have authority.”

The College of Physicians and Surgeons did not come and say, “We think you should get a warrant to do this work,” because the College of Physicians and Surgeons or the college of dentists or the college of pharmacists or the college of nurses knows that they already have similar authority in doing inspections of their members’ place of practice.

I’m sorry, but I respectfully disagree with you. We do not require the authority to have a warrant. This is perfectly consistent with the way in which other inspection regimes are described in Ontario law.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.7? Those opposed? Motion 10.7 is defeated.

PC motion 10.8: Ms. Elliott.

Mrs. Christine Elliott: I move that section 13 of the bill be amended by adding the following subsection:

“(6.1) For the purposes of subsection (6), a readable format means a format that meets standards set out in the regulations made under the Medicine Act, 1991.”

Again, this was suggested by the OMA to define “readable format,” because there was no definition in this act, just to make sure that it complies with the standards that the physicians are already meeting with respect to the regulations made under the Medicine Act. So just to give a definition.

The Chair (Mr. Shafiq Qaadri): Comments on 10.8? Madame Gélinas.

M^{me} France Gélinas: I’m not sure I understand what this means. Can somebody give me an example?

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, are you directing that question to anyone in particular?

M^{me} France Gélinas: Let’s start with legislative counsel.

The Chair (Mr. Shafiq Qaadri): Let’s start with legislative counsel.

Mr. Ralph Armstrong: There are regulations under the Medicine Act in which the term “readable format” is defined. That is what it’s getting at, linking it up with that system. On the other hand, there is no necessary link between the Medicine Act and this expression. It’s also possible to leave a term to be decided through the normal meaning of the words.

It appears that ministry counsel is prepared to expand.

The Chair (Mr. Shafiq Qaadri): Sounds good. Ministry counsel?

Mr. Robert Maisey: If it would be of assistance, I can expand on it. My name is Robert Maisey, counsel with the Ministry of Health and Long-Term Care. I also had to go and look up what this reference meant. Under the Medicine Act, there are various record-keeping standards that physicians are required to keep in order to maintain a patient record, and some of it refers to a patient record; other pieces refer to computerized records. This is cross-

referencing it, as was mentioned earlier, to indicate that “readable format” means, for physicians, what is referenced under the professional standards for record-keeping under the Medicine Act.

M^{me} France Gélinas: Does the Medicine Act only refer to physicians or is everybody else who writes in a health record also intended to have a readable format?

Mr. Robert Maisey: The Medicine Act provisions only apply to physicians and surgeons; they don’t apply to pharmacists.

The Chair (Mr. Shafiq Qaadri): Any further comments on 10.8? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.8? Those opposed? Motion 10.8 is defeated.

Shall section 13 carry? Carried.

Section 14, PC motion 10.9: Ms. Elliott.

Mrs. Christine Elliott: I move that clause 14(1)(c) of the bill be amended by adding “knowingly” at the beginning.

Again, this was recommended by the OMA because, under the act, as written, it is possible that a prescriber could inadvertently pass along false information to the minister based on information which has been provided to them. This section is amended to provide that it is only an offence when a prescriber knowingly provides false information to the minister. There may be some occasions where they just pass along what they’ve already been told, so they’re not knowingly breaking the law, but it happens, so they want to make sure that “knowingly” is inserted for their protection.

1720

The Chair (Mr. Shafiq Qaadri): Motion 10.9 comments? Ms. Sandals.

Mrs. Liz Sandals: Because of the fact that in this act—I understand that if people are going to end up somehow in criminal court or some sort of litigious situation, they may want to be able to claim they didn’t knowingly break the law. Certainly, that would be open to people as a defence. But given that our first response of the minister or the executive officer in dealing with this is going to be more by way of education around best practice and bringing information to people’s attention, we certainly want the ability to intervene in the case where there has been negligence or where maybe the physician or someone has been too trusting of their patients in passing along information. When we find that there has been misuse or abuse, the minister or the executive officer needs the authority to follow up on it.

As I say, if it came to criminal or disciplinary proceedings, that would be the time for somebody to introduce “knowingly” as a defence. But we do need to be able to get at what will be the bulk of things, which are negligence and lack of information. We need to be able to get at those in the normal course of business for this registry, for this database, to be effective.

The Chair (Mr. Shafiq Qaadri): Further comments on 10.9? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.9? Those opposed? Motion 10.9 is defeated.

Shall section 14 carry? Carried.

Shall sections 15 and 16, inclusive, carry? Carried.

Section 17: government motion 11, Ms. Sandals.

Mrs. Liz Sandals: I move that clause 17(1)(b) of the bill be struck out and the following substituted:

“(b) excluding a person from the application of this act, or from one or more provisions of this act, subject to the conditions, if any, provided for in the regulations;”

If you recall, when we were talking about this business of hospitals being no longer legislatively excluded—that there need to be consultations with the hospitals on just how the bill would apply to hospitals. This fleshes out the regulation authority a little bit more in terms of—again, you can imagine the situation where perhaps there’s some reason where some physicians within a hospital would be included and others would be excluded; some circumstances would be included and others would be excluded.

It gives the flexibility to work through the issues that may arrive from hospital practice and to have a regulation—where there’s sufficient flexibility to come up with a regulation that makes sense.

The Chair (Mr. Shafiq Qaadri): Further comments? If there are none—Madame Gélinas.

M^{me} France Gélinas: I’m not opposed to what was said, but I’m a little bit worried that there are half a dozen modifications to this bill that have been brought forward by the government. To me, it sort of supports what I have been saying today, that it seems like this bill has been rushed through.

You all know that I had asked for consultation to take place in northern Ontario, to take place in rural Ontario. None of this happened. We’ve received dozens of written submissions. I have the Arthritis Society here that says, “The society is also concerned that the time frame for submissions to the hearings does not allow it to comprehensively review the bill and consider what advice and comment it should provide to this process.” We have the Canadian Diabetes Association and Action Ontario.

We now have a whole bunch of controlled substances. One of them, let’s say, is testosterone. Did we go and ask the people dealing with transgender what this bill will do to them? There are many mental health agencies out there that will be significantly affected by this bill. But here again, they are working flat out with minimum resources. They did not have a chance to bring forward their comments and their requests for changes. They did not have a chance to be consulted and be heard. First Nations, north-erners, rural Ontario, the transgendered, the Arthritis Society, the diabetes society, Action Ontario—the list goes on and on. We all got the package from the clerk. This bill is being rushed through.

There are some good changes that are being made today. I have a feeling that if we had taken the time to listen to everybody else who will be affected by what this bill is trying to do, we could have come out with something way better for the people of Ontario—not to mention everybody who is asking for a pain strategy, which is the flip side of putting in place a supply bill.

This is a bill that deals with the supply of narcotics without looking at one of the reasons why people use narcotics: because they’re in pain. We don’t have a complete pain management strategy—nowhere near. It’s the same thing with access to treatment.

So I feel we’re rushing this through. We are bringing things forward that are significant changes in the way we do things in Ontario—with good intentions, but our good intentions may end up doing more harm than good because we didn’t listen to all of the people who were affected by those changes.

Again, I will support the government’s wanting to amend its own legislation, because, yes, this bill needs amendment. It would need way more amendment if we had time to hear from everybody who will be affected.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. Sandals.

Mrs. Liz Sandals: I must quibble with your characterization of “a lot of government amendments.” In fact, we have made very few amendments to the bill. There have been a few where there were some wording changes like that suggested by CAMH, where all three parties submitted the same amendment and we all agreed on it.

There are essentially two substantive changes that we are proposing. One is the change to give physicians access to the prescription information for the patient prior to prescribing. All three parties submitted amendments that address that issue. The other substantive issue is to ensure that the information from hospitals is not legislatively excluded and that we work with the hospitals on how to collect it.

There are only two substantive changes that we are making, and this is part of one of them. We’d like your support.

The Chair (Mr. Shafiq Qaadri): Unless there are more comments, those in favour of government motion 11? Those opposed? Motion 11 is carried.

NDP motion 12.

M^{me} France Gélinas: I move that subsection 17(1) of the bill be amended by adding the following clause:

“(k) in keeping with the purpose of this act and in recognition of one of the underlying causes of misuse of prescription narcotics, respecting the development of a province-wide comprehensive pain strategy that includes a public consultation process.”

This amendment deals with what we’ve heard over and over and over through the hearings as well as the information that was given to us in writing—and, I’m sure, in the emails that we’ve all received—that you cannot go ahead with a supply bill without looking at how we’re going to cope with this and what kind of effect it’s going to have on the ground for people who need those types of medication.

Dozens of groups have written to us. They all want a comprehensive pain management strategy. Other jurisdictions have them. Ontario is lacking. This bill will have a horrific impact on people living with chronic pain if we don’t do the flip side of this; that is, to give them access to a comprehensive pain management strategy. They’ve

all told us that they've all worried. If you cut off the supply of narcotics to people who need them for a legitimate reason, you are needlessly making a lot of Ontarians suffer.

1730

The Chair (Mr. Shafiq Qaadri): Comments on the NDP motion?

Mrs. Liz Sandals: This is a case which I think is a little legislatively odd, because this would have the effect of adding regulatory authority concerning something about which there is no actual legislative hook in the bill. It essentially gives cabinet the authority to make regulations without having any legislative direction in the bill on this subject. It just seems to be procedurally rather unusual. But more to the point, probably, we don't need legislation to have a pain management or chronic pain management strategy. That's something that the Ministry of Health can and is working on quite independently of legislation.

The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Christine Elliott: Though it may be procedurally a little bit unusual, we heard from so many presenters who were concerned about the need to counterbalance the aim of the legislation with the legitimate need of many people who are in pain to have access to the narcotics that they need in order to control the pain. I think that if we have an opportunity to deal with that based on, as I said, the many presentations we heard, we should seize on that opportunity. We would certainly support this amendment.

The Chair (Mr. Shafiq Qaadri): Madame G  linas?

M^{me} France G  linas: Well, this bill, at the core—I mean, we all know that this bill has been put forward to deal with the misuse of prescriptions of controlled substances, most of them being narcotics; some of them are others. We've heard deputant after deputant and we've received lots of written information that all says the same thing: One of the big reasons for the misuse is because we don't have a comprehensive pain management strategy in Ontario. If we are serious that we want to deal with the misuse, then we will listen to all of the deputants that have come forward and have sent us their comments, and put them in the bill so that we have a balanced approach to misuse of prescription narcotics, not solely supply-side.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 12? If not, we'll proceed to the vote. Those in favour of NDP motion 12? Those opposed? NDP motion 12 is defeated.

We move to 12.1R, PC motion.

Mrs. Christine Elliott: I move that clause 17(2)(a) of the bill be struck out and the following substituted:

“(a) the minister has published a notice of the proposed regulation in the Ontario Gazette, on the website of the ministry and in any other format the minister considers appropriate for the purpose of providing notice to the persons who may be affected by the proposed regulation;”

This simply expands the notice provisions to ensure that all necessary persons receive notice of the proposed regulation and have the opportunity to provide their input on it.

The Chair (Mr. Shafiq Qaadri): Further comments on 12.1?

Mrs. Liz Sandals: Just that there is already a statutory requirement that this regulation, as a Ministry of Health regulation, be posted on the Ministry of Health website. Quite frankly, that's where most people who are health practitioners would go, to the Ministry of Health, as opposed to the Ontario Gazette, which I guess lawyers might go to occasionally. But the people who are actually health stakeholders are going to go to the Ministry of Health website, and there's already a statutory requirement to post this there.

The Chair (Mr. Shafiq Qaadri): Further comments on 12.1R?

M^{me} France G  linas: I hate to say this, but I don't seem to have the right motion in front of me.

Mrs. Liz Sandals: This is the replaced one.

M^{me} France G  linas: This is the replacement one?

Mrs. Liz Sandals: Yes.

M^{me} France G  linas: And I got the replacement when?

Mrs. Liz Sandals: When you walked into the room.

M^{me} France G  linas: I hate when that happens. Okay. Sorry about that.

The Chair (Mr. Shafiq Qaadri): Are there any further comments, or would you like a moment to consider it?

M^{me} France G  linas: I will be supporting the motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments? We'll proceed to the vote. Those in favour of PC motion 12.1R? Those opposed? I'll take that as PC motion 12.1R has been defeated.

PC motion 12.1—

Mrs. Christine Elliott: 12.2?

Interjection.

Mrs. Christine Elliott: Oh, yes.

The Chair (Mr. Shafiq Qaadri): PC motion 12.1 is withdrawn. PC motion 12.2.

Mrs. Christine Elliott: I move that subsection 17(2) of the bill be amended by striking out “and” after clause (c), adding “and” after clause (d) and adding the following clause:

“(e) any other information that the minister considers appropriate.”

Again, this was an amendment suggested by the Information and Privacy Commissioner to expand the clauses of the information that might be considered, so it's just an expansion provision.

The Chair (Mr. Shafiq Qaadri): Thank you. PC motion 12.2: Ms. Sandals?

Mrs. Liz Sandals: Sorry; I'm reading at the moment. Okay. This is the one where we can't figure out what it means, so we will be opposing it because we can't make it read right.

So 17(2), the intro line on it is, “The Lieutenant Governor in Council shall not make any regulations under clause” blah, blah, blah, “unless ... any other information that the minister considers appropriate.” It’s just not a sensible statement.

Mrs. Christine Elliott: I think it’s really just clarifying some of the language. I don’t think there’s any real substantive amendment. I think it’s just clarifying.

Mrs. Liz Sandals: It just doesn’t read appropriately. The English language doesn’t make sense.

M^{me} France Gélinas: I would say that, to me, the English language doesn’t make sense lots. Adding this makes sense to me, so I have no problem supporting this.

Le Président (M. Shafiq Qaadri): Si vous voulez une présentation en français, c’est votre choix, et votre droit aussi.

M^{me} France Gélinas: Merci, monsieur le Président.

The Chair (Mr. Shafiq Qaadri): All right. If there are no further linguistic or procedural issues on 12.2, we’ll proceed to the vote. Those in favour of PC motion 12.2? En faveur? Contre? Thank you. PC motion 12.2 defeated, in both languages.

We’ll now proceed to PC motion 12.3.

Mrs. Christine Elliott: I move that subsection 17(4) of the bill be amended by striking out “30” and substituting “60”. This is to change the time for consultation with respect to the regulations from 30 to 60 days, as is required in the Personal Health Information Protection Act.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments on PC motion 12.3? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 12.3? Those opposed? Motion 12.3 is therefore defeated.

Shall section 17, as amended, carry? Carried.

Shall sections 18 and 19, inclusive, carry? Carried.

Shall the preamble—actually, we’ve got NDP motion 13 with reference to the preamble. I will invite Ms. Gélinas to present it.

M^{me} France Gélinas: Thank you. As I said, I felt that there have been enough changes to the bill that would warrant the preamble to be modified. So I move that the preamble to the bill be amended by adding the following paragraph at the end:

“The program of monitoring the prescribing and dispensing of certain controlled substances is one of several tools that the government of Ontario is using to address health and safety concerns related to the use of narcotics and other controlled substances. In order to aid this program, the government will work with and disclose information to other parties, in particular, the health profession colleges, who will be able to assist in achieving the government’s goals.”

Basically—

The Chair (Mr. Shafiq Qaadri): Ms. Gélinas, I need to once again, with extreme regret, inform you that this particular NDP motion 13 is out of order.

I have some very interesting explanation for it, should you wish, although I’d invite wiser heads to explain it. Would you like the explanation?

M^{me} France Gélinas: Is it long? You’re scaring me.

The Chair (Mr. Shafiq Qaadri): It is in English.

M^{me} France Gélinas: It’s a big document you’re waving right now.

The Chair (Mr. Shafiq Qaadri): There are objectionable elements, but in any case—

M^{me} France Gélinas: Go ahead. I’m listening.

The Chair (Mr. Shafiq Qaadri): “Preamble: In the case of a bill that has been referred to a committee after second reading, a substantive amendment to the preamble is admissible only if it is rendered necessary by amendments made to the bill. In addition, an amendment to the preamble is in order when the purpose is to clarify it or make the English and French uniform.”

M^{me} France Gélinas: Isn’t this what I said? I thought that we had made enough changes to the bill to justify—

The Chair (Mr. Shafiq Qaadri): We value your thoughts, and I would invite legislative counsel to clarify, if you’d like, or the clerk.

The Clerk of the Committee (Mr. Trevor Day): You had earlier amendments that, had they passed, would have made your specific changes to the preamble admissible as a motion. They failed, and for that reason, this change cannot be made to the preamble, based on the changes that have already been made to the bill.

The Chair (Mr. Shafiq Qaadri): There’s a lot of excitement back here, but if you need more clarification, I will offer it to you.

M^{me} France Gélinas: No, that will be sufficient.

The Chair (Mr. Shafiq Qaadri): I will take it, then, that NDP motion 13 is withdrawn: out of order. Thank you.

NDP motion 14.

Interjection.

M^{me} France Gélinas: So I move that the preamble to the bill be amended by adding the following paragraph at the end:

“Finally, in recognition of one of the underlying causes of misuse of prescription narcotics, the government of Ontario will develop a province-wide comprehensive pain strategy in tandem with the program of monitoring the prescribing and dispensing of narcotics.”

We heard this—

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Je vous informe maintenant que cette motion-ci n’est pas en ordre, for approximately the same reasons.

M^{me} France Gélinas: Okay.

The Chair (Mr. Shafiq Qaadri): NDP motion 14 is now out of order.

PC motion 15.

Mrs. Christine Elliott: May I presume from your previous comments that our amendments to the preamble will similarly be ruled out of order?

The Chair (Mr. Shafiq Qaadri): They similarly will be ruled out of order, yes.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Shafiq Qaadri): I’ll take it, then, that PC motion 15 is withdrawn, as it is out of order.

Therefore, I'll pose the question now, unless there are further comments.

Shall the preamble carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 101, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Any further business? Seeing none, committee is adjourned.

The committee adjourned at 1742.

CONTENTS

Tuesday 26 October 2010

Narcotics Safety and Awareness Act, 2010, Bill 101, Ms. Matthews / Loi de 2010 sur la sécurité et la sensibilisation en matière de stupéfiants, projet de loi 101, Mme Matthews	SP-287
---	--------

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

Ms. Sylvia Jones (Dufferin–Caledon PC)

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Substitutions / Membres remplaçants

Mrs. Christine Elliott (Whitby–Oshawa PC)

M^{me} France Gélinas (Nickel Belt ND)

Mrs. Liz Sandals (Guelph L)

Also taking part / Autres participants et participantes

Mr. Robert Maisey

Ms. Diane McArthur

Clerk pro tem / Greffier par intérim

Mr. Trevor Day

Staff / Personnel

Mr. Ralph Armstrong, legislative counsel





3 1761 11465786 9